

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

TRANSCRIPT OF THE
CITY OF RIVERSIDE BOARD OF ETHICS HEARING PANEL
VIRTUAL MEETING
COMPLAINT: HUNTER v. PLASCENCIA
SEPTEMBER 30, 2020
5:00 PM

Transcribed by:
Christine Aiello

Job No. J6064715

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

BOARD OF ETHICS HEARING PANEL

Chair Freya Foley
Member Gloria Huerta
Member Taylor Keen
Member Jessica Newman
Member Dave Stahovich

OTHERS PRESENT ON BEHALF OF THE BOARD

Assistant City Clerk - Eva Arseo
Senior Deputy City Attorney - Brandon Mercer

	INDEX	Page
1		
2	Call Meeting to Order	4
	Roll Call	8
3	Public Comment	9, 162
	Technical or Procedural Issues	
4	By the Complainant	13
	By the Respondent	31
5	Motion by the Board	21, 192
	Opening Statement	
6	By the Complainant	33
	By the Respondent	80
7	Parties and Witnesses Sworn	43
	Presentation of the Case	
8	By the Complainant	48
	By the Respondent	85
9	Cross-Examination	133
	Rebuttal	138
10	Closing Argument	
	By the Complainant	151
11	By the Respondent	158
	Deliberation and Discussion	169
12	Appeal Rights	214
	Adjournment	219

13

14

15

16

W I T N E S S T E S T I M O N Y

17

	Page
Jennifer McCoy	109
Colleen Nicol	68
Al Zelinka	86

18

19

20

21

E X H I B I T S

22

Description	Admitted
-------------	----------

23

None offered.

24

25

P R O C E E D I N G S

(On the record)

CHAIR FOLEY: So one of the things that we've agreed to is that when we're on the panel and there are witnesses and all of those kinds of things, we're going to be visible to each other so we can see each other. Okay. So okay. So if everybody is here, I'm going to call the meeting to order. Is everybody here? Okay. So I'm going to call the meeting to order.

Now, the public comments, we've already -- we've had some online public comment. And everybody -- they were sent to each panel member, and each panel member had an opportunity to review the online comments.

Do we have anybody on the phone? Does that mean that we don't have anybody on the phone?

MEMBER HUERTA: Freya, do you have someone assigned to watch the comment box?

CHAIR FOLEY: Well, that's what we're checking on. Our technical people have been doing that. Oh, which comment -- what do you mean? Do you want to do it? Where is the comment box? You mean our -- our -- our --

MEMBER HUERTA: The chat box.

CHAIR FOLEY: Yeah, we don't need that this

1 time because we've made it work for me, so but I
2 appreciate --

3 MEMBER HUERTA: Okay.

4 CHAIR FOLEY: -- that. If I miss something,
5 feel free to tell me I'm missing something.

6 MEMBER HUERTA: There's several comments in
7 there for you in the chat box.

8 MEMBER STAHOVICH: You're missing several
9 comments.

10 CHAIR FOLEY: Okay. I don't have -- I have --
11 I don't have any comments in my chat box though.

12 MEMBER KEEN: They're asking --

13 MEMBER STAHOVICH: I would suggest --

14 MEMBER KEEN: -- for us to take --

15 MEMBER STAHOVICH: -- you let Gloria --

16 MEMBER KEEN: -- official roll call.

17 MEMBER STAHOVICH: -- handle it.

18 CHAIR FOLEY: What? I'm sorry, what?

19 MS. ARSEO: Freya, would you like --

20 CHAIR FOLEY: Yeah.

21 MS. ARSEO: -- to take roll, or would you
22 like me to ask to take roll?

23 CHAIR FOLEY: We don't need to do roll. We
24 just did it. We don't need to do that, but what I do
25 need is to see why my -- oh, let me see, show

1 conversation.

2 MEMBER STAHOVICH: I would suggest we take the
3 official roll call and make sure everybody is actually
4 here and accessible.

5 CHAIR FOLEY: Can you wait a second? We're
6 still -- we're dealing with another issue.

7 MEMBER STAHOVICH: Let me know when the
8 meeting starts then.

9 CHAIR FOLEY: I will.

10 Okay. My show conversation left. Okay.
11 It's coming back, I believe. Here it comes. Well, I'm
12 going to -- I'm going to go out and come back in to see
13 if I can get my conversation back, my comments back,
14 because I'm not seeing comments. So I'll be right
15 back.

16 (Break)

17 CHAIR FOLEY: I'm muted. I'm muted. There
18 we go. Okay. I'm back, and it's all working again.

19 Gloria, can you -- can you manage the chat
20 for me? Seeing as it's giving me difficulty.

21 MEMBER HUERTA: Freya, I'll be happy to do
22 that. And after roll call, I would like, if possible,
23 to have the public comment read into the record
24 since --

25 CHAIR FOLEY: Yeah.

1 MEMBER HUERTA: -- the people who are on our
2 call may not be able to see it.

3 CHAIR FOLEY: Well, I don't -- I -- I don't
4 think -- it isn't necessary to do that. We've had this
5 discussion. And so if we -- it was sent to everybody,
6 and everybody did have an opportunity to read.

7 MEMBER HUERTA: Yes, the members --

8 MEMBER KEEN: Everybody on the board, but not
9 the --

10 MEMBER HUERTA: The members of the panel have
11 had the opportunity to read it, but the people who
12 are --

13 CHAIR FOLEY: Okay.

14 MEMBER HUERTA: -- calling or participating
15 from other venues may not see it. So again, in the --
16 in the --

17 CHAIR FOLEY: Do you have it --

18 MEMBER HUERTA: -- means of protecting --

19 CHAIR FOLEY: Do you have --

20 MEMBER HUERTA: -- being transparent.

21 CHAIR FOLEY: Do you have it available,
22 Gloria?

23 MEMBER HUERTA: I -- I do, but I'll defer
24 until after roll call.

25 CHAIR FOLEY: Okay, all right.

1 So, Eva, can you do roll call, please?

2 MS. ARSEO: Sorry. Yes. Okay. Chair Foley.

3 CHAIR FOLEY: Here.

4 MS. ARSEO: Member Huerta.

5 MEMBER HUERTA: Here.

6 MS. ARSEO: Member Keen.

7 MEMBER KEEN: Here.

8 MS. ARSEO: Member Newman.

9 MEMBER NEWMAN: Here.

10 MS. ARSEO: Member Stahovich.

11 MEMBER STAHOVICH: Here.

12 MS. ARSEO: And is alternate Member Ford
13 present? I do not see her. She is absent. Okay. All
14 members --

15 CHAIR FOLEY: Okay.

16 MS. ARSEO: -- are here.

17 CHAIR FOLEY: Okay, all right.

18 Gloria, you had an additional comment to
19 make?

20 MEMBER HUERTA: Yes. I would like to read the
21 public comment that was posted online since, again we
22 have it as members, but other callers may not be able
23 to see --

24 CHAIR FOLEY: Okay.

25 MEMBER HUERTA: -- it.

1 CHAIR FOLEY: All right. Go ahead.

2 MEMBER HUERTA: It's a public comment for
3 section two submitted by Sharon Dodgeson (phonetic).
4 Position is support. Her comments are, I support
5 Mr. Hunter's complaint against Ms. Plascencia, as it is
6 wrong in a non -- nonpartisan elected position to show
7 favoritism towards a certain group, whether it be union
8 versus nonunion or a party affiliation. It is
9 Ms. Plascencia's responsibility to represent all. And
10 by assigning a union bug to her city business card, it
11 shows a spin towards a group.

12 CHAIR FOLEY: Okay. Thank you.

13 We have a caller on line one, I believe, for
14 item one.

15 MR. MUNOZ: I -- I speak right now?

16 CHAIR FOLEY: Yeah, yeah.

17 MR. MUNOZ: Hello.

18 CHAIR FOLEY: Hello, yeah.

19 MR. MUNOZ: All right. Just start talking?

20 CHAIR FOLEY: Yeah.

21 MR. MUNOZ: Okay. So anyone who knows that
22 the union bug -- what the union bug stands for, knows
23 it stands for a responsible contractor or an
24 organization that pays fair wages, benefits, and
25 medical. I don't see anything wrong with that.

1 There's already precedent set by other cities. Or
2 would -- or would our city prefer that we use
3 contractors who -- who don't pay a fair wage, much less
4 -- much less benefits, slashingly subsidize those
5 contractors?

6 And before you ask, why or how we subsidize
7 them, is because those contractors, their employees,
8 they go to the hospital, their kids go to the hospital,
9 their wives go to the hospital --

10 CHAIR FOLEY: Okay. Mr. --

11 MR. MUNOZ: -- and where do they go if they
12 don't have insurance? They go to the county or they go
13 to IEHP or Medi-Cal or some subsidized --

14 CHAIR FOLEY: Or --

15 MR. MUNOZ: -- healthcare plan by the
16 taxpayer. We shouldn't be footing the bill for a
17 contractor who's not willing to put out for these --
18 their employees. So I don't see what the complaint is
19 about -- about what's going on, because there -- there
20 is no issue about whether it's too expensive or not. I
21 think we're dealing with a nonissue right here. I -- I
22 -- I don't see why we're -- we're arguing over a bug or
23 not. Yeah.

24 So do I start all over again?

25 CHAIR FOLEY: No. Can you (indiscernible) --

1 MR. MUNOZ: My name is --

2 CHAIR FOLEY: -- (indiscernible)?

3 MR. MUNOZ: -- Juan Munoz. I'm a resident of
4 Riverside. No, that -- that was it.

5 MR. CISNEROS: Hello. My name is Ricardo
6 Cisneros with the Inland Empire Labor Council. And I'm
7 calling in today in regards to the ethics complaint
8 that was placed against Councilmember Plascencia. I
9 understand that the complaint states that using the
10 union bug means advocating for -- for private interests
11 or third parties. I just want to make one thing clear,
12 you know, the Inland Empire Labor Council represents
13 various unions throughout the Inland Empire and the
14 county of Riverside.

15 Here you're talking about your custodians
16 that work within the city of -- of -- of Riverside.
17 You're talking about the folks that work in waste
18 management that pick up their trash in the city of
19 Riverside. You're talking about school teachers.
20 You're talking about your police officers. You're
21 talking about different various workers that work
22 within the city of Riverside. They're your neighbors.
23 They're not special interest. So let's make one thing
24 clear.

25 There's other cities, you know, in California

1 that also utilize union printing, because that's what
2 it's about, it's union printing, it -- to -- for their
3 materials in the city. Like for example, the city of
4 Los Angeles, and other smaller cities within that
5 county, utilizes union printers that have the union bug
6 on it. That's creating a good job in their local area
7 with paid benefits and a good pay.

8 We want to make sure that we do the same
9 thing here in the city of Riverside, is to create those
10 jobs and expand on the printers that we have here in
11 the area to make sure that they pay -- they pay good
12 wages and provide benefits for their workers. This is
13 not a third party, and it's not an ethical issue.
14 Actually, creating a good job is a good moral issue to
15 have.

16 And I hope that everyone that's there
17 listening on the panel today understand that workers
18 are not special interests. Thank you very much.

19 CHAIR FOLEY: Are there any more calls? Okay.
20 If there's no more calls, we're going to continue on
21 with the meeting.

22 Now, prior to the opening -- Councilwoman
23 Plascencia and Mr. Hunter, prior to our starting the
24 meeting, each one of you has five minutes to address
25 any technical or procedural issues you'd like to

1 discuss.

2 So we can start with you, Mr. Hunter. Do you
3 have any technical or procedural issues you'd like to
4 discuss?

5 MR. HUNTER: Yeah, two things. Number one is,
6 are we going to -- I got -- I got a bunch of different
7 packets as far as the evidence goes. I got one just
8 recently, which I believe has 200 and -- it's 235 pages
9 to it. Is that the document that we're going to use
10 when I start referencing the evidence? Because that's
11 the one I was planning on using. I want to make sure
12 so -- so that when I cite the -- I'm going to consider
13 that to be the administrative record, and that's the
14 one I'd like to cite, 1 through 235, otherwise we're
15 going to be jumping around from document to document,
16 and I know that slows us down a lot when we've -- we've
17 done that in the past.

18 So that's my first question. I have a second
19 one.

20 CHAIR FOLEY: It is my understanding that this
21 packet is all of the evidence and all -- the complaint
22 and the complainants -- and the respondent's response
23 for the complaint.

24 Is that correct Eva? Couldn't hear you, Eva.

25 MS. ARSEO: Sorry. Yes, this is correct,

1 Chairwoman Foley.

2 CHAIR FOLEY: Okay. Thank you.

3 I'd like to make a note also on the packet.
4 Mr. Hunter, that I'd want to make a note that you did
5 correct your first ordinance that you put in at the
6 prehearing. And I -- it -- let me just see what page
7 it is here. You have a correction to, it's Exhibit C
8 for you, whichever -- wherever -- let me see.

9 So Mr. Hunter originally submitted, it's page
10 162, and that's a correction to the original ordinance
11 that he submitted, the correction is the actual
12 ordinance that was in place at the time that the city
13 council meeting took place. So I just want to make
14 note so that no one is looking at the wrong ordinance.

15 MR. HUNTER: That's correct.

16 CHAIR FOLEY: Okay.

17 MR. HUNTER: And then the -- the second
18 question I have is -- and -- and -- and so that will be
19 the official record I quote, just for the folks on the
20 panel, it will be that -- I'll go to the pages of the
21 235 pages. The second thing is -- is since I didn't
22 have an opportunity to object to any of the evidence
23 that the respondent has supplied, when would I do that?
24 Do I do that during her -- her -- her introduction of
25 the evidence, or should I do it now?

1 CHAIR FOLEY: Well, you actually don't -- you
2 -- you can cross-examine her after she makes a
3 presentation. You can cross-examine her on anything
4 that she presents.

5 MR. HUNTER: Well, I'd like to -- I'd like to
6 strike some of the evidence actually, because, you
7 know, we had a prehearing conference where --

8 CHAIR FOLEY: Uh-huh.

9 MR. HUNTER: -- I had to more or less justify
10 all of my evidence, that it was relevant and -- and --
11 and substantial, right, which is two different things.
12 I think that the -- I would like to move -- make a
13 motion on my behalf to strike page 184 of the record,
14 as I don't think that's actually substantial evidence.
15 That's been a list supplied by Ms. Plascencia that I --
16 I -- I didn't -- I'm not going to go crosscheck. It's
17 just a list. It doesn't mean anything.

18 It -- there's no -- it -- that -- that
19 shouldn't -- you know, it -- it --

20 CHAIR FOLEY: I think, Mr. Hunter, you
21 (indiscernible) --

22 MR. HUNTER: -- (indiscernible).

23 CHAIR FOLEY: -- might be cross-examining her
24 about, because the -- the process doesn't provide, I
25 don't think, for you to object right now to -- unless

1 -- let's ask Brandon.

2 Brandon, I'm not aware that the process
3 allows for Mr. Hunter to object to Councilwoman
4 Plascencia's evidence in her response except through
5 cross-examination.

6 MR. MERCER: Hi, everybody. This is Brandon
7 Mercer from the City Attorney's Office. This can be
8 done a couple of different ways. You're right, it --
9 the procedures do not address this directly on point,
10 but we could do one of two things. We could have
11 Mr. Hunter bring up his objections now, and you could
12 have the hearing panel take care of it now, or
13 Mr. Hunter could object during testimony and have
14 rulings at that point; but he does have a right to make
15 objections.

16 CHAIR FOLEY: Okay.

17 MR. MERCER: And so it's really up to the
18 Chair whether you want to just handle that all upfront
19 or if you would prefer to have Mr. Hunter do it kind of
20 on the fly. The --

21 CHAIR FOLEY: Well, I --

22 MR. MERCER: It doesn't -- it doesn't say one
23 or another in our protocols when that should be
24 handled. There are two different options, so I'll
25 leave it up to the Chair.

1 CHAIR FOLEY: Okay. So I would prefer we get
2 it out of the way now, but Councilwoman Plascencia does
3 have an opportunity to respond to his objections,
4 correct, Brandon?

5 MR. MERCER: Like, yes, that's typically how
6 it happens at court. That's how it happens at
7 arbitration hearings. He can make his objection, the
8 grounds for his objection, give her an opportunity to
9 respond, and then maybe have a brief discussion with
10 the panel and take a vote. That's --

11 CHAIR FOLEY: Okay.

12 MR. MERCER: That's my recommendation. It
13 just seems like it will be faster if you do it upfront.
14 I agree with you.

15 CHAIR FOLEY: Okay, all right.

16 Mr. Hunter.

17 MR. HUNTER: All right. Well, there's --
18 there's two things I'd like to have struck -- struck
19 from the record, as I think that they're
20 non-substantial, immaterial, and -- and -- and not
21 evidence based. And -- and one of them is the list of
22 other cities on page 184 of the record. I'll give
23 everybody a second to get there, including myself. It
24 has a list of some cities that allow use of union bugs
25 in business cards.

1 Anyone could make that list. It's not
2 substantial. I have no idea -- I -- I -- I -- it's not
3 my duty to vet it, quite frankly. It would have been
4 the duty of the respondent, Ms. Plascencia, to actually
5 offer examples through either some sort of Municipal
6 Code or actual business cards, which she actually does
7 on page 183 of the record. There are some business
8 cards up there. That's the way you enter evidence.
9 You just don't, you know, blindly say, hey, these
10 people do it.

11 I -- I don't know, and it's not my job quite
12 frankly to -- to go -- to go vet that, nor should it be
13 the panel's.

14 CHAIR FOLEY: Okay.

15 MR. HUNTER: She's got to provide that
16 evident. And -- and then, correspondingly, because --

17 CHAIR FOLEY: Okay. So --

18 MR. HUNTER: -- this goes with page 183, is at
19 least the top business card, and I'm not sure about the
20 bottom two, that doesn't appear to be an official city
21 business card. That could be a business card for maybe
22 somebody running for city council or an unofficial
23 business card. What I want to make sure, this -- this
24 -- this union bug issue is about official business
25 cards used by city councilmen with the official logo

1 and, you know, mottos or whatever that -- that are used
2 by those cities.

3 Now, the second one and third one from Los
4 Angeles and the city of Oakland appear to be maybe
5 official business cards, but that top one doesn't,
6 which makes me wonder if the bottom two are official
7 either. And I really don't have anyway, once again, of
8 checking that either. So anyway, that's -- that's the
9 -- I think you need to strike at least part -- portion
10 one of 183 and all of page 184.

11 CHAIR FOLEY: Okay. Panel, can we have a
12 discussion? Comments, please.

13 MEMBER HUERTA: Dave has a question.

14 CHAIR FOLEY: Oh, go ahead, Dave.

15 MEMBER STAHOVICH: Looking at the evidence,
16 again we -- let's not forget that during the hearing,
17 we have the opportunity to weigh the value of any and
18 all evidence that is submitted. If at the point of the
19 hearing that we're discussing this evidence and we feel
20 it has, you know, whatever value we feel it has, I
21 think that's the appropriate time to weigh it, rather
22 than just unilaterally strike things.

23 I -- I can certainly understand Mr. Hunter's
24 questions, especially with the list. The list doesn't
25 tell me anything other than a list of names of cities,

1 and that's probably how I personally will weigh it. It
2 doesn't have a lot of value to me, but I don't see a
3 problem with keeping evidence, you know, that's
4 suggested by the councilwoman, included, let her
5 explain it later.

6 CHAIR FOLEY: Okay. Jessica Newman.

7 MEMBER NEWMAN: Yeah, thank you, council --
8 chair. I just wanted to say I know we're having an
9 opportunity to discuss, but there was supposed to be
10 some time for Councilmember Plascencia to rebut or to
11 defend the --

12 CHAIR FOLEY: We can, yeah, we will do that.

13 MEMBER NEWMAN: Okay.

14 CHAIR FOLEY: Gloria.

15 MEMBER HUERTA: I want to remind everyone, I
16 have no issue with leaving the evidence in for a later
17 discussion, but I would like to mention that the
18 complaint is really not the fact that a union bug was
19 approved. The -- the complaint is that the Sun --
20 Sunshine Ordinance, I think it's sunshine, I'm looking
21 at the complaint now on page 4 of our packet, but the
22 Sunshine Ordinance was misused because this is not --
23 does not appear to be an urgent matter.

24 So I would agree with Dave, we can leave it
25 in and discuss the merit of it -- the benefit of having

1 this documentation that is unclear, but I don't really
2 think that it changes anything because it is not
3 pertinent to the actual complaint filed by Mr. Hunter.
4 And I see a hand up from Mr. Hunter.

5 MR. HUNTER: Oh, sorry, let me take it down.

6 CHAIR FOLEY: Oh, oh.

7 MR. HUNTER: I (indiscernible).

8 CHAIR FOLEY: Take that hand down.

9 Okay. I -- I agree with everyone. Is every
10 -- do you feel -- I think can we get a motion?

11 Dave, do you want to make a motion?

12 MEMBER STAHOVICH: So moved that -- that we
13 keep the -- the information in the packet as presented.

14 MEMBER KEEN: I second that motion.

15 CHAIR FOLEY: Okay, all right. So we don't --
16 Councilwoman Plascencia, do you feel the need to make a
17 comment on your evidence will be remaining in the
18 packet -- in your packet?

19 COUNCILWOMAN PLASCENCIA: No comment.

20 CHAIR FOLEY: Okay, all right.

21 Jason, did you have anything else?

22 MEMBER HUERTA: We need to take a vote.

23 CHAIR FOLEY: Thank you.

24 Okay. Eva, could you do a roll call for the
25 vote, please?

1 MS. ARSEO: Yes. Chair Foley.

2 CHAIR FOLEY: Yes.

3 MS. ARSEO: Member Huerta.

4 MEMBER HUERTA: No.

5 MS. ARSEO: Member Keen.

6 MEMBER KEEN: No.

7 MS. ARSEO: Member Newman.

8 MEMBER NEWMAN: No.

9 MS. ARSEO: And Member Stahovich.

10 MEMBER STAHOVICH: It's a moot point.

11 CHAIR FOLEY: So -- so what did we -- so we're
12 voting -- so I just want to be clear. Those of you
13 that voted no, you're voting to have the evidence
14 removed from the packet?

15 MEMBER HUERTA: That's correct for Gloria
16 Huerta.

17 CHAIR FOLEY: That's correct for you, Gloria?
18 Because you said --

19 MEMBER STAHOVICH: Actually point of order.

20 CHAIR FOLEY: Uh-huh.

21 MEMBER STAHOVICH: I think the first motion
22 failed. So I think we need another motion that would
23 suggest removing the evidence.

24 CHAIR FOLEY: Oh, no, I just wanted to
25 understand what they were voting on because it wasn't

1 clear.

2 Okay. So --

3 MEMBER STAHOVICH: That motion failed.

4 CHAIR FOLEY: Yeah, okay. So is there another
5 motion?

6 MEMBER HUERTA: Ms. Plascencia wishes to speak
7 to the -- to the motion or the comments.

8 MEMBER STAHOVICH: We already had that. It's
9 -- it's now at the -- the question is being asked, so I
10 don't think we open it back up to the floor. We had an
11 opportunity already.

12 CHAIR FOLEY: Okay. But let her speak to --

13 COUNCILWOMAN PLASCENCIA: All this is
14 confusing to me. I was just, I wanted to clarify.

15 CHAIR FOLEY: Okay.

16 COUNCILWOMAN PLASCENCIA: I didn't want -- I
17 didn't want to comment because of the comments that
18 were made based on the direction we were going in, but
19 then I -- I was confused on what the motion was and how
20 the votes went, so that's why I felt very confused.
21 Because most of your comments was that you were going
22 to leave the evidence as is, but then the motion --
23 then the votes went differently. So that's what I'm
24 trying to clarify, if every -- if that was correct.

25 MS. ARSEO: That is correct, the motion

1 failed.

2 MEMBER KEEN: Dave wishes to speak.

3 CHAIR FOLEY: Go ahead, Dave.

4 MEMBER STAHOVICH: Yeah. So that motion --
5 that motion failed. So procedurally, I think we -- if
6 -- if we -- if the desire of some of the members is to
7 have it removed, somebody needs to make the motion,
8 then we can open up discussion again.

9 CHAIR FOLEY: Jessica, go ahead, please.

10 MEMBER NEWMAN: Okay. Thank you. So from my
11 understanding, the motion was to allow the evidence,
12 but we're supposed to allow Councilmember Plascencia
13 the opportunity to speak against Mr. Hunter's request.
14 She didn't get a chance to do that. I -- we still had,
15 you know, we were still discussing whether we were
16 going to allow evidence, and then the motion got made
17 to -- to go ahead and leave it as is.

18 So I -- what I voted no to was to move ahead
19 and just allow it to remain the way it was, but we
20 didn't -- I didn't feel that we finished the process of
21 hearing both sides and then discussing, you know, and
22 then discussing what -- what we thought and then take a
23 vote.

24 CHAIR FOLEY: Okay. Dave.

25 MEMBER STAHOVICH: Okay. Yeah, when -- when I

1 made the motion to just leave it for now, Councilwoman
2 Plascencia had the opportunity, and I -- I imagine,
3 based on the fact that it was going to stay in, there
4 was probably not a need to argue to keep it in, that
5 would be my guess. And this is just the technical
6 aspect before we actually start the trial or the -- the
7 hearing. She'll have her chance to -- to give her --
8 her opening statements, her evidence, her arguments.
9 This is just trying to figure out some of the technical
10 issues before we even get started.

11 CHAIR FOLEY: Right. However, there is no --
12 it's my understanding, and correct me if I'm wrong,
13 currently there is no motion to remove this evidence;
14 is that correct?

15 MEMBER HUERTA: That is correct.

16 CHAIR FOLEY: Okay. That's why I was asking
17 what the motion was.

18 Eva, can you tell --

19 Gloria, I see that you need -- you want to
20 speak.

21 But, Eva, can you tell us what the motion
22 actually was?

23 MS. ARSEO: The motion was to keep the
24 evidence as presented in the record.

25 CHAIR FOLEY: Well, then -- and then okay, all

1 right.

2 MS. ARSEO: So the vote was 2 to 3, so it
3 failed.

4 CHAIR FOLEY: Okay, okay. We need a new
5 motion because it's kind of in limbo.

6 Gloria, you wanted to speak earlier, and I --
7 I missed you.

8 MEMBER HUERTA: Oh, that's okay. I -- I -- I
9 withdrew my request to speak, but I'll make a motion so
10 that we can move forward. I'll move that this evidence
11 -- this -- the evidence on pages 184 be deleted as
12 evidence to be considered in our deliberations.

13 CHAIR FOLEY: Thank you. Discussion?

14 Councilwoman Plascencia, you can also speak
15 at this time for the discussion of this -- during the
16 -- for this motion.

17 COUNCILWOMAN PLASCENCIA: Thank you. This is
18 my first time, so this is very confusing to me. I -- I
19 obviously would hope that you would consider leaving in
20 what I submitted as I do think it -- it is relevant.
21 So that's all I'm requesting. And we can discuss it
22 further later, but I would -- I would hope that we
23 could leave what I submitted in the -- in the
24 discussion. Thank you.

25 CHAIR FOLEY: Gloria, can I -- I don't

1 understand -- I don't think I understand your motion
2 completely. Could you explain it to me?

3 MEMBER HUERTA: I -- my motion, which doesn't
4 have a second yet, was to exclude page 184 from the
5 evidence that we would consider in our deliberations.

6 CHAIR FOLEY: Okay. I understand it now.
7 Is there a second?

8 MEMBER HUERTA: Dave wants to speak.

9 CHAIR FOLEY: Go ahead, Dave.

10 MEMBER STAHOVICH: We have two options. The
11 first one, would -- I -- I offered a motion to leave it
12 in, and that failed. The only other logical option
13 would be to remove it, and there's a motion on the
14 floor without a second. We've really got to go one way
15 or the other though. And I'm still -- I'm -- I'm still
16 in favor of allowing it in at this point.

17 CHAIR FOLEY: I -- my understanding, Dave, was
18 that your motion, and maybe I misunderstood -- I
19 thought your motion was to leave it in, but to give it
20 the weight that it deserved. Is that what your motion
21 was?

22 MEMBER STAHOVICH: No. It -- when we
23 deliberate is when we determine what weight any
24 evidence may have had.

25 CHAIR FOLEY: Uh-huh.

1 MEMBER STAHOVICH: At this point we're -- just
2 the idea was to leave it in. And when we deliberate,
3 that's when we look at the piece -- various pieces of
4 evidence and say what value do they have. Did they,
5 you know -- and -- and that's when we make that
6 determination, not now.

7 CHAIR FOLEY: Okay. Well, we don't really
8 have a motion if there's no second. There's -- what's
9 the technical word for it that if we don't have a
10 second to be a motion -- the motion?

11 MEMBER STAHOVICH: It fails for lack of a
12 second.

13 CHAIR FOLEY: Failed for lack of a second.
14 Okay. Dave, go ahead. You want to speak
15 again?

16 MEMBER STAHOVICH: I would once against offer
17 the motion, now that everybody maybe further
18 understands it, that we at this time, at this point in
19 time, we leave the evidence in as submitted for
20 consideration later.

21 CHAIR FOLEY: I would modify the motion to
22 say, you know, giving it the weight that it deserves.

23 MEMBER STAHOVICH: That's part of
24 deliberations. That's not part of --

25 CHAIR FOLEY: Okay.

1 MEMBER STAHOVICH: -- keeping evidence in.

2 CHAIR FOLEY: Okay, all right.

3 Is there a second for Dave's motion? Okay.

4 I guess I'm the chair, but I can second your motion. I
5 second it. So now, is there any further discussion
6 before we do a vote?

7 Eva, can you do a roll call vote, please?

8 MS. ARSEO: Yes. Chair Foley.

9 CHAIR FOLEY: Yes.

10 MS. ARSEO: Member Huerta.

11 MEMBER HUERTA: No.

12 MS. ARSEO: Member Keen.

13 MEMBER KEEN: No.

14 MS. ARSEO: Member Newman.

15 MEMBER NEWMAN: No.

16 MS. ARSEO: Member Stahovich.

17 MEMBER STAHOVICH: Yes. I now -- I -- I
18 actually, I would like to withdraw my motion and offer
19 a second -- a new motion then. We've got to -- we've
20 got to get through this.

21 CHAIR FOLEY: We do. So please, give me the
22 new motion. We have got to get -- we have to get this
23 going forward.

24 MEMBER STAHOVICH: Then the motion is to have
25 that evidence removed at this time.

1 CHAIR FOLEY: Okay. Is there a second?

2 MEMBER HUERTA: I second it.

3 CHAIR FOLEY: Eva, can you do a roll call
4 vote, please?

5 MS. ARSEO: Yes. Chair Foley.

6 CHAIR FOLEY: No.

7 MS. ARSEO: Member Huerta.

8 MEMBER HUERTA: Yes.

9 MS. ARSEO: Member Keen.

10 MEMBER KEEN: Yes.

11 MS. ARSEO: Member Newman.

12 MEMBER NEWMAN: Yes.

13 MS. ARSEO: Member Stahovich.

14 MEMBER STAHOVICH: Yes. I made the motion, I
15 think I need to go with it.

16 MS. ARSEO: The motion -- the motion passes
17 with Chair Foley dissenting.

18 CHAIR FOLEY: Okay. So this is only for the
19 list of cities, correct, that we were having that
20 discussion?

21 Mr. Hunter, you said you had another
22 objection?

23 MR. HUNTER: Yes.

24 CHAIR FOLEY: I think --

25 MR. HUNTER: That was on --

1 CHAIR FOLEY: We have to move on. Go ahead.

2 MR. HUNTER: I'll -- I'll -- I'll drop my
3 objection. I think the vote is going to come -- come
4 out the same way. And I just, I'll raise my -- my
5 points during my rebuttal argument.

6 CHAIR FOLEY: Okay. So, Councilwoman
7 Plascencia, do you have any technical or procedural
8 issues you'd like to address?

9 COUNCILWOMAN PLASCENCIA: No.

10 CHAIR FOLEY: Okay, all right. All right. So
11 now, we -- as we proceed, I just want to say that the
12 complainant has the burden of proof by a preponderance
13 of the evidence to establish that there was a violation
14 of prohibit -- of -- of prohibited conduct. The
15 preponderance of evidence means evidence that is more
16 convincing and therefore more probable in truth and
17 accuracy.

18 Neither party is allowed to examine the other
19 party as part of the presentation of their case. In
20 other words, you cannot call each other as a witness.
21 However, you can cross-examine the other party and to
22 any matters that were directly testified to. During
23 the hearing, any member of the panel may ask a question
24 of the parties or witnesses. I just would like to say
25 that, well, we all know it now, but Councilwoman

1 Plascencia did respond in her -- gave -- gave -- gave a
2 response to the complaint, and her response was
3 received in a timely manner.

4 Now, we now can do opening statements. So I
5 want to reiterate that the parties are given a total of
6 15 minutes for both their closing and opening
7 statement. They have to -- each party should determine
8 how much time they want to spend on each.

9 Eva, will you -- will do the timing of
10 whichever amount of time you choose.

11 The respondent, you can make your opening
12 statement now, you -- or choose not to make it. You
13 can -- Councilwoman Plascencia, as you're the
14 respondent, you can choose to wait to make your opening
15 statement until after the complainant concludes their
16 case or you can do it now. After the complainant's
17 opening statement, then you can -- you're allowed to
18 make yours at that time, or you can wait until the end
19 of the case; but no one is required to give an opening
20 statement. It's your choice.

21 So, Mr. Hunter, will be making an opening
22 statement?

23 MR. HUNTER: Yes, I will.

24 CHAIR FOLEY: And how -- how much time --

25 MR. HUNTER: And I'd ask that at the begin --

1 at the end, maybe the clerk just tell me how long --
2 how much -- how much time I took so I can have an idea
3 of what my close will -- will be.

4 CHAIR FOLEY: Okay. So you -- okay. So you
5 just want to talk and then --

6 MR. HUNTER: Yeah, just --

7 CHAIR FOLEY: Okay. So, Eva --

8 MR. HUNTER: -- whatever I have left over,
9 I'll spend on the close. It will be a very -- a very
10 short opening statement.

11 CHAIR FOLEY: Okay. And, Councilwoman
12 Plascencia, do you want to make an opening statement?

13 COUNCILWOMAN PLASCENCIA: No. I can wait
14 until Jason finishes with his -- with his statement.

15 CHAIR FOLEY: With his statement or with his
16 case?

17 COUNCILWOMAN PLASCENCIA: With his case.

18 CHAIR FOLEY: Okay.

19 COUNCILWOMAN PLASCENCIA: Thank you.

20 CHAIR FOLEY: Okay, all right. Okay. So can
21 -- Mr. Hunter.

22 MR. HUNTER: Yeah. Good evening.

23 CHAIR FOLEY: (Indiscernible).

24 MR. HUNTER: Sorry.

25 CHAIR FOLEY: Eva, will you start timing him

1 now, please?

2 MS. ARSEO: Yeah.

3 CHAIR FOLEY: So --

4 MR. HUNTER: Evening -- evening, ethics panel
5 here. It's good to be back. There's two parts to this
6 complaint I think folks have to concentrate on. I
7 think the first part of the complaint is, was our
8 Sunshine Ordinance violated in bringing this forth into
9 the City Council for a vote. And I think the evidence
10 is going to show that -- and in order to sustain a
11 complaint, it has to be either intentional or repeated
12 action.

13 I think what I'm going to show here pretty --
14 pretty clear is that it's intentional. It was brought
15 forward. It was not an urgent matter like it needs to
16 be as -- as -- as -- as required in the -- in our
17 Sunshine Ordinance codes, and it was brought in a
18 fashion, quite frankly, that nobody really would have
19 known what was going to be discussed on the afternoon,
20 right, not even the evening, but the afternoon of
21 December 17th, because the agenda didn't state what it
22 was going to be, the report really didn't state what
23 it's going to be.

24 And I think that leads, at least the public
25 perception, and hopefully I'll convince the panel that,

1 this was an intentional act that was done in kind of a
2 sneaky underhanded way. And so that's the Sunshine
3 Ordinance. I think I've got a very strong case there,
4 and I'll -- I'll show that to people as we go forward.

5 The second part is, should the union bug be
6 really on the business cards at all. And it's not
7 about whether it's legal. That doesn't matter. So I
8 -- we'll probably find out some -- some opinion from
9 our -- our dear city attorney, who has been wrong
10 before, and very notably in the papers as of -- as of
11 recently, that, you know, he's going to say it's legal.
12 I'm going to say, it doesn't matter, because we're --
13 this is an ethics violation. Is it ethical? Does it
14 conform with our code?

15 And it's not about, is it -- is it anti- or
16 pro-union. It's not about that. I would have brought
17 this complaint whether the union -- or the business
18 cards and the paraphernalia of the city had the
19 republican or democratic logos on them or Eat at Joe's,
20 the American Red Cross. I don't care. I don't want
21 anything on those business cards, and I don't think the
22 public does either, outside of the City of Riverside's
23 logos and mottos.

24 And lastly I'd say, it -- it -- it doesn't
25 matter what the comparisons are. You know, this is the

1 old saying when you were a kid, I'm sure you heard it,
2 you know, oh, other cities are doing it. Well, that's
3 like my mom used to say, well, if everybody was jumping
4 off a bridge, would you do it, too, right? It doesn't
5 matter what other cities are doing. It matters what
6 we're doing here in Riverside.

7 We are a charter city. Those other cities
8 may not be charter cities, okay? Those other cities
9 may not have Code of Conduct and Ethics, right? So
10 it's about what we're doing here. Let me read real
11 quick. Because it's good to remind people from time to
12 time on what is the point of our ethics code, right,
13 what are we -- what are we doing here, what are we
14 trying to decide.

15 And so the purpose of the Code of Ethics, I'm
16 going to read it for everybody, just a reminder, and
17 Conduct is to achieve -- achieve fair, ethical, and
18 accountable local government for the City of Riverside.
19 The people of the City of Riverside expect their public
20 officials to comply with both the letter and spirit of
21 the laws of the United States, State of California, and
22 the charter of the City of Riverside, the Municipal
23 Code, and established policies of the City of Riverside
24 affecting their operations of local government,
25 including this Code of Ethics, okay?

1 In addition, it says, public officials are
2 expected to comply with the provisions of the Code of
3 Ethics and Conduct established -- established pursuant
4 to the expressed will of the people, okay?

5 So here -- here -- here's where I think we'll
6 end up, and I'll -- I'll reiterate this upon the close;
7 I think, did -- was the -- the -- the -- the Sunshine
8 Ordinance violated? I think clearly so. Is it
9 allowable under our Code of Ethics to have the union
10 bug on the business cards? Is it a use of city
11 resources for non-city purposes? Is it advocacy of
12 private -- private interest of third parties in certain
13 circumstances? Is it endorsement for compensation? Is
14 it a violation of FPPC laws?

15 I think so. And I think it violates really
16 the spirit of the law. Does it violate the letter, I
17 don't know. I'll leave that for you guys to do decide,
18 but I would say this, having gone around and polled
19 hundreds of people on this issue throughout the city --
20 throughout the city, left, right, and indifferent, is
21 that most people say this is wrong.

22 And if the -- if the ethics panel doesn't
23 find a sustained complaint -- complaint on the union
24 bug part of this issue, then what we should be doing is
25 making sure if there is a loophole, closing it and

1 making a suggestion to the -- to the City Council that
2 this needs to be sort of, I would guess, quote-unquote
3 forbidden or prohibited or outlawed going forward --
4 forward, maybe referred to the FPPC, and then all these
5 union bug cards destroyed, quite frankly.

6 And so hopefully I'll be able to prove that
7 through my presentation here going forward. And I'll
8 wrap that up again, those thoughts on my close. Thank
9 you.

10 CHAIR FOLEY: What was the time, Eva? You're
11 on mute.

12 MS. ARSEO: Sorry. He used ten minutes and
13 eight seconds of his time.

14 CHAIR FOLEY: So you have --

15 MS. ARSEO: Oh, no, excuse me --

16 CHAIR FOLEY: You have --

17 MS. ARSEO: No, the balance -- I'm sorry. The
18 balance is ten minutes of his time.

19 CHAIR FOLEY: So he has ten minutes for his
20 closing statement; is that what you're saying?

21 MS. ARSEO: Correct.

22 CHAIR FOLEY: Okay.

23 MS. ARSEO: That is correct. I'm sorry.

24 MEMBER STAHOVICH: I was timing it, too. I
25 was going to call that out.

1 MS. ARSEO: All right.

2 CHAIR FOLEY: Okay.

3 MS. ARSEO: I --

4 MR. HUNTER: You guys made me sweat there for
5 a second. I thought, oh, my God.

6 MS. ARSEO: I apologize. I apologize.

7 CHAIR FOLEY: Just seeing if you're on your
8 toes there.

9 Okay. And just I want to check again with
10 you, Councilwoman Plascencia, you're going to wait and
11 do your opening statement after Mr. Hunter presents his
12 case; is that correct?

13 COUNCILWOMAN PLASCENCIA: Correct.

14 CHAIR FOLEY: Okay.

15 COUNCILWOMAN PLASCENCIA: Yes.

16 CHAIR FOLEY: So we can go forward then.

17 Okay. So -- so, Mr. Hunter, you can proceed with your
18 case.

19 MEMBER HUERTA: Madam Chair, Mr. -- Mr. Mercer
20 asked if there's any public comment on item two.

21 CHAIR FOLEY: Oh, okay.

22 MEMBER HUERTA: Before we move forward.

23 CHAIR FOLEY: Sorry. I missed it.

24 Thank you, Gloria.

25 Is there any comment, public comment on item

1 -- no callers.

2 Okay, okay. Now, we can -- you can call your
3 first witness. All witnesses have to be sworn in.

4 And, Eva, you will be swearing in the witnesses, I
5 believe.

6 MS. ARSEO: Yes.

7 CHAIR FOLEY: Okay.

8 MS. ARSEO: Yes.

9 CHAIR FOLEY: So you can start, Jason.

10 MS. ARSEO: So I'll -- hold on, let me start
11 the timer for his 25 minutes.

12 CHAIR FOLEY: Okay.

13 MS. ARSEO: Okay. Proceed. Jason, you're on
14 mute.

15 MR. HUNTER: I -- I don't have any witnesses,
16 but I would like to take the video of December 3rd and
17 get that loaded for the -- for the -- for the panel.
18 That's --

19 CHAIR FOLEY: (Indiscernible).

20 MR. HUNTER: It's like a minute video. Just,
21 let's just run that, because I -- I think that goes
22 right to the point, the whole point of the Sunshine
23 Ordinances.

24 CHAIR FOLEY: Okay. Mr. Hunter, you do have
25 two witnesses that are here for you.

1 MR. HUNTER: I -- I was fine with their
2 responses. If -- if I have any questions later on, you
3 know, as I'm making my case and if I think about it,
4 I'll call them, but -- I mean, if we want to swear them
5 in, let's swear them in now just in case I need them.
6 Let's -- let's do that.

7 CHAIR FOLEY: Okay. So we need to swear in
8 Colleen Nicol -- Nicol, and I can't see her name
9 anymore. Where did her name go?

10 MS. NICOL: Jennifer McCoy.

11 CHAIR FOLEY: Yes, we need to swear in both of
12 them, please. All right.

13 MS. ARSEO: And do you want to swear in --

14 CHAIR FOLEY: Oh, Al Zelinka? Well, no. He
15 -- he won't get sworn in until Councilwoman Plascencia
16 presents her case.

17 MS. ARSEO: Are you ready, Colleen?

18 CHAIR FOLEY: In a second. Excuse me.

19 MS. NICOL: Yes.

20 CHAIR FOLEY: Dave has a question.

21 MEMBER STAHOVICH: Did we already swear the
22 parties in as well?

23 MS. NICOL: Yeah, we didn't.

24 CHAIR FOLEY: I don't know if we --

25 Brandon, did we swear in the parties?

1 MEMBER STAHOVICH: No.

2 CHAIR FOLEY: Okay.

3 MR. MERCER: You know, to the extent they're
4 going to be testifying, if they're going to be
5 testifying, they should be sworn in as well, yes,
6 parties and all witnesses.

7 CHAIR FOLEY: Okay. So then can we --
8 Mr. Hunter, we need to swear you in.

9 MEMBER HUERTA: Mr. -- madam chair, I just
10 have a point of clarification, a point of order.

11 CHAIR FOLEY: Sure.

12 MEMBER HUERTA: I don't think it's fair to any
13 of our witnesses or the complainant and the respondent
14 to dock time when we have been having this debate about
15 swearing in. So I don't know if we --

16 CHAIR FOLEY: Oh, okay.

17 MEMBER HUERTA: -- need a motion to, or if we
18 can just reset the clock when he actually is able to
19 provide his open -- I mean, his case.

20 CHAIR FOLEY: Well, we should do that.

21 Eva, did you hear council --

22 MS. ARSEO: Yes. I will reset.

23 CHAIR FOLEY: Okay.

24 MS. ARSEO: I will reset the time.

25 CHAIR FOLEY: Okay.

1 MR. HUNTER: And in the meantime, please get
2 the -- the -- the -- the December 3rd video cued up if
3 you could, IT.

4 CHAIR FOLEY: Okay. So we -- first we need to
5 swear in Mr. Hunter.

6 MS. ARSEO: Okay.

7 MR. HUNTER: And the witnesses.

8 CHAIR FOLEY: We will, but we need you --

9 MR. HUNTER: Okay.

10 CHAIR FOLEY: -- we're going to do you first.

11 MS. ARSEO: Jason Hunter, do you swear to tell
12 the truth, the whole truth, and nothing but the truth
13 so help you God?

14 MR. HUNTER: Yes, I do.

15 (Jason Hunter is duly sworn according to law)

16 MS. ARSEO: Thank you.

17 CHAIR FOLEY: Okay.

18 MS. ARSEO: I will -- I will swear in Colleen
19 next.

20 MS. NICOL: Okay.

21 MS. ARSEO: Colleen Nicol, do you swear -- oh,
22 I don't see you, Colleen.

23 CHAIR FOLEY: She's there. I see the CN.

24 MS. NICOL: I'm -- I'm here with my hand up.
25 Go ahead.

1 CHAIR FOLEY: It looks like her --

2 MS. ARSEO: Are you back --

3 MS. NICOL: Okay.

4 MS. ARSEO: -- Colleen?

5 MS. NICOL: Yes. You were the --

6 MS. ARSEO: Do you see me now?

7 MS. NICOL: -- one that was out. Okay. Come
8 on. I'm ready.

9 MS. ARSEO: Colleen Nicol, do you swear to
10 tell the truth, the whole truth, and nothing but the
11 truth so help you God?

12 MS. NICOL: I do.

13 (Colleen Nicol is duly sworn according to law)

14 MS. ARSEO: Thank you.

15 Who's next?

16 CHAIR FOLEY: McCoy.

17 MS. ARSEO: I'll start -- I'll swear in
18 Councilwoman Plascencia.

19 CHAIR FOLEY: No.

20 MS. ARSEO: Will you raise your hand.

21 CHAIR FOLEY: Oh, right now we're doing Jason
22 and his witnesses. So you have one more.

23 MS. ARSEO: Oh, I thought everybody at once.
24 Okay. So am I swearing in Jennifer McCoy? Is she
25 available?

1 MS. MCCOY: Yes, I'm here.

2 MS. ARSEO: I don't see your -- I don't see --
3 you're not visible on my screen. I'm sorry, Jennifer.

4 MS. MCCOY: Let me try again.

5 MS. ARSEO: All right. You can turn your
6 camera -- there we go. Will you raise your right hand,
7 please? Do you -- do you, Jennifer McCoy, swear to
8 tell the truth, the whole truth, and nothing but the
9 truth so help you God?

10 MS. MCCOY: I do.

11 (Jennifer McCoy has been duly sworn according to
12 law)

13 MS. ARSEO: Thank you.

14 CHAIR FOLEY: Okay.

15 MS. ARSEO: And --

16 CHAIR FOLEY: I think we can wait and do
17 Councilwoman Plascencia when she starts her case, I
18 believe.

19 MS. ARSEO: Okay.

20 CHAIR FOLEY: Dave.

21 MEMBER STAHOVICH: I suggest we swear in
22 anybody and everybody we intend to so we don't forget.

23 CHAIR FOLEY: Okay. I don't have any problem
24 with that.

25 Okay. So go ahead, Eva. Swear in

1 Councilwoman Plascencia.

2 MS. ARSEO: Councilwoman Plascencia, do you
3 swear to tell the truth, the whole truth, and nothing
4 but the truth so help you God?

5 COUNCILWOMAN PLASCENCIA: Yes.

6 (Councilwoman Gaby Plascencia is duly sworn
7 according to law)

8 MS. ARSEO: Thank you.

9 CHAIR FOLEY: Okay. Al Zelinka.

10 MS. ARSEO: I don't see him.

11 CHAIR FOLEY: Yeah, he's AZ. He's right
12 there.

13 MS. ARSEO: Oh, Al, do you hear?

14 MR. ZELINKA: I do hear you, yeah.

15 MS. ARSEO: Can you turn your --

16 MR. ZELINKA: I'm actually --

17 MS. ARSEO: -- camera on?

18 MR. ZELINKA: It is on.

19 MS. ARSEO: You're just not on my screen.

20 MR. ZELINKA: Maybe -- yeah. Sorry about
21 that. My -- my right hand is up if you want to -- can
22 others see me?

23 CHAIR FOLEY: Oh, now we can see you.

24 MS. ARSEO: I can see you now. Thank you, Al.

25 Al Zelinka, do you swear to tell the truth, the whole

1 truth, and nothing but the truth so help you God?

2 MR. ZELINKA: I do.

3 (Al Zelinka is duly sworn according to law)

4 MS. ARSEO: Thank you.

5 Who else did I have?

6 CHAIR FOLEY: We have -- Councilwoman
7 Plascencia, do you have any other witnesses?

8 COUNCILWOMAN PLASCENCIA: No.

9 CHAIR FOLEY: Okay. Mr. Hunter, do you have
10 any other witnesses?

11 MR. HUNTER: No, I don't.

12 CHAIR FOLEY: Okay.

13 MEMBER HUERTA: Jason has a comment that
14 please have the video ready to be cued, and we do have
15 a note from Scott that it is ready.

16 CHAIR FOLEY: All right.

17 MS. ARSEO: So am -- am I starting his
18 25 minutes now? No?

19 CHAIR FOLEY: Not yet. He's -- I don't know,
20 he's gone.

21 Mr. Hunter, are you coming back?

22 MR. HUNTER: Yeah, I'm here. Sorry.

23 CHAIR FOLEY: Okay. So --

24 MR. HUNTER: I'm -- I'm just making sure my
25 dogs don't bust in the room here.

1 CHAIR FOLEY: I got ya. Okay. So you, are
2 you ready to start your case?

3 MR. HUNTER: Yes, I am.

4 CHAIR FOLEY: Okay. So time --

5 MS. ARSEO: Start his time.

6 CHAIR FOLEY: -- now.

7 MS. ARSEO: Starting his time.

8 MR. HUNTER: Let's start it up with a -- with
9 a video, and let's run the video, the whole video. It
10 should only be about a minute long from the
11 December 3rd meeting. Let's show that for the entire
12 panel.

13 (Video started)

14 MAYOR BAILEY: Councilmember Plascencia.

15 COUNCILWOMAN PLASCENCIA: Thank you. I wanted
16 to ask my colleagues --

17 MR. HUNTER: There's no audio.

18 COUNCILWOMAN PLASCENCIA: -- to consider, so
19 per resolution 23437, Council Rules of Procedure, I
20 would like my colleagues on the City Council to
21 consider my request that the city --

22 (Video stopped)

23 (Video started)

24 MAYOR BAILEY: Councilmember Plascencia.

25 COUNCILWOMAN PLASCENCIA: Thank you. I wanted

1 to ask my colleagues to consider, so per resolution
2 23437, Council Rules of Procedure, I would like my
3 colleagues on the City Council to consider my request
4 that the city attorney and city manager bring to the
5 City Council, as soon as possible, I know that we will
6 probably have a packed agenda next meeting, but
7 whenever it's possible to add to the agenda, depending
8 upon what's on the agenda, that a discussion to
9 determine policy options for including items and logos
10 other than official city business on the City Council
11 business cards and other collateral materials. Thank
12 you.

13 MAYOR BAILEY: Would you -- would you like to
14 further that to committee first, like the Governmental
15 Affairs Committee? It sounds potentially under their
16 purview. It's good to have a committee look at that
17 and -- and get consensus there before bringing it to
18 the full council.

19 COUNCILWOMAN PLASCENCIA: I would prefer it to
20 be on the council agenda. Thank you.

21 MAYOR BAILEY: Okay. Seven, eight,
22 Councilwoman Plascencia --

23 MR. HUNTER: All right. Thank you.

24 MAYOR BAILEY: -- recommends guidelines for
25 City Council collateral --

1 MR. HUNTER: Can you stop right there,
2 please?

3 MAYOR BAILEY: -- insignias for --
4 (Video stopped)

5 MR. HUNTER: Thank you. So I think what you
6 see there, and -- and the key words are, if -- if you
7 run that again, you'll see that -- I'm not -- and I'm
8 not asking you to run it again, is that the words are,
9 whenever it's possible. And that, you know, she
10 recognizes that there's a full agenda for the next
11 meeting, which would be the December 17th meeting, so
12 whenever the city manager, and she specifically
13 requests the city manager and the city attorney,
14 whenever it's possible, please bring it back. That
15 doesn't sound like urgent to me.

16 And secondly, you know, it's -- it doesn't
17 sound like it's urgent. It's just, it's a business
18 card. You -- people get them all the time.

19 So let's go to the Sunshine Ordinances. What
20 does it say on urgent clauses? If you could, please go
21 to 162 of your packet. And I'll give everybody a
22 second to get there. And I circled a phrase there for
23 everybody. And it's -- it's -- this is how you get
24 things on, at the time, the agenda if -- if you wanted
25 to put -- if -- if -- to bypass the Sunshine Ordinances

1 and go directly with -- with three days notice.

2 It says, if the mayor or city councilmember
3 with the concurrence of another councilmember believes
4 an item is urgent, and the -- and the failure to meet
5 any of the notice requirements was due to -- now,
6 obviously it's not (b). It's not a software or
7 hardware impairment, okay? So it's (a), the need to
8 take immediate action, which came to the attention of
9 the local body after the agenda was posted.

10 Well, listen, there was no need to take
11 immediate action. We just saw that on the video.
12 Whenever it's possible, was the words used. So you
13 would need to prove that it was a -- it was -- was
14 urgent. This matter was clearly not urgent.

15 Let's get to item number -- let's go to page
16 6 of your docket. So I just showed you the process by
17 which you get things on the -- the agenda.

18 CHAIR FOLEY: Page?

19 MR. HUNTER: Page 6. Page 6 is the agenda for
20 that -- that -- for the next meeting, which is
21 December 17th, 2019. And you'll see, if you look at
22 item 7A, you'll see Councilwoman Plascencia recommends
23 guidelines for City Council collateral and insignias
24 for official city business. Now once again, having
25 viewed that video and -- and looking at this agenda

1 item, does it really mention what the intent is here?
2 Like, how are we going to change it? We're going to
3 put the union bug on the business cards. Where is that
4 mentioned anywhere?

5 It's just talking about general guidelines.
6 And there really wasn't -- it was very ambiguous and
7 vague at the time that it was mentioned during items
8 for future consideration in the video. So we see that
9 it's been added there, 7A means it's -- it's -- it's a
10 late add, that's why they have the A in there. If you
11 go to my questions for the clerk, and that's down on
12 page 200 and -- it starts on page 214 of your agenda
13 package, you'll see, and I'm not going to go into
14 specifics, because I'm -- I'm assuming that everyone
15 has read the agenda package, okay, but if you look at
16 what starts on 2000 -- 2 -- page 2 -- 214, my questions
17 to the clerk and then 215, you'll see the clerk's
18 answers; the clerk goes through the process and she
19 explains that, you know, right around December 13th,
20 Gaby came to her and she added items 7A with Councilman
21 Fierro's co-signature on that.

22 And so if you go back up now to -- to page 7,
23 I'm sorry to jerk -- to jerk you around like this, but
24 if you go back up to page 7, we're going to see the
25 report from that meeting, the City -- the City Council

1 memorandum, right? It says guidelines for official
2 City of Riverside City Council collateral and
3 determined that the insignias that should and should
4 not be on the collateral. Once again, no mention of
5 the -- of -- of the union bug.

6 If somebody from the public looked at the
7 agenda and looked at the reports, you'd have no idea
8 what was coming, right? In fact, if you go through
9 entire report, you won't see any mention of it. But
10 I'll tell you what, who's responsible for this -- for
11 this memorandum, and it's not city staff. Go down to
12 page 8, and you will see at the bottom of that memo,
13 the signature of Councilmember Plascencia. And for the
14 purposes of placing it on the agenda, Councilman
15 Fierro, but the person who put this on and is
16 responsible for this memo is Councilmember Plascencia,
17 herself, okay? So we know who did it.

18 If you go to the administrative manual on
19 page 10 of the City of Riverside, this kind of gives
20 you an idea of who is kind of -- how reports are
21 written with the city, and this is kind of the
22 expectations when you write a report. If you go to the
23 -- the -- where it says, the policy format, style, and
24 content; it says, reports shall be written in an active
25 voice journalistic style. They should -- shall be

1 concise and must include sufficient information to
2 enable the City Council, successor agency to the
3 redevelopment agency, authorities, and city -- city
4 councilmembers to make an -- an informed decision --
5 decision, right? I would -- I would add to that, quite
6 frankly, the public as well. The -- the public should
7 be included in that policy so that people can see the
8 reports and know what the heck are we actually
9 discussing here today.

10 So if you go to the City's branding manual,
11 and this one was included with the agenda report on the
12 17th, and that is in page 25. It starts on page 25.
13 And I'm not going to go through the whole branding
14 manual because it's got to be 65 pages long. And --
15 and once again, I'm hoping that people from this panel
16 at least browsed it or perused it. You will see that
17 it -- it clearly states, you know, on -- on our city
18 collateral, we don't want people to be confused. We
19 want people to know that you're representing the city
20 and that it's the city's interests, and -- and we have
21 very pretty -- pretty strict regulations as far as what
22 we put on our collateral.

23 There's nothing -- so there's nothing in the
24 agenda, number one. There's nothing in the agenda
25 memorandum or report, number two. And there's nothing

1 in this branding manual, number three, that would have
2 been available to the public before the meeting to have
3 any idea that the whole putting a union bug on the
4 business cards or any of the city collateral was in
5 play. And I just think that's outrageous.

6 And secondly, it's -- it's not urgent because
7 you're talking about business cards here. We -- we --
8 we couldn't use the regular business cards for at least
9 a few weeks until we vetted the policy? You have the
10 mayor in the video stating, don't you want to take this
11 to Government Affairs and have it vetted because this
12 just kind of seems a little bit odd and unusual, and it
13 was turned down.

14 And so I think we're -- we're -- we're --
15 basically we're bypassing the existing processes here,
16 and we're defeating the spirit of the Sunshine
17 Ordinance. I think -- I hope people can see that
18 clearly there was no urgency here, clearly in the
19 councilperson's own words, okay? So that should be an
20 easy one.

21 So let's get to the harder one, right? Let's
22 talk about the union bug, itself. And so let's start
23 off with page 24. Let's see this infamous union bug,
24 what it looks like, although I have a really terrible
25 copy of it on my -- my page, but if you look at -- I --

1 page number 24 and you kind of blow it up a little bit,
2 you look in that bottom right-hand corner, that's the
3 infamous union bug. And it's on the front page --
4 front of the business cards. My guess is it's on the
5 rest of the collateral.

6 I don't know what other councilmen have them
7 on their cards. I care -- I do care about that, too,
8 but I don't want to bring 15 different ethics
9 complaints. I've been asking the ethics panel to -- to
10 come up with a way to consolidate these. So I'd just
11 rather bring them against one person. It just so
12 happens that Gaby draws the short stick on this one.

13 So it -- that's the way it looks like. If
14 you look at page 20 -- excuse me -- page 12 of your
15 packet, you'll see something, and I just pulled this
16 randomly off the internet, I didn't some extensive
17 search to find out, you know, something that would skew
18 it one way or skew it something, I wanted to know what
19 is the union bug and what does it represent, because
20 this is a specific union bug for a printer on the front
21 of Gaby's card, Ms. Plascencia's card, sorry, I should
22 be a little more formal; but what does it mean? It
23 means more than that, right? The union bug means more
24 than just that specific printer's logo in there. So I
25 said, what does it mean?

1 And it says right there, this is just off of
2 something I pulled off the internet. It says, it's a
3 protection against anti- or nonunion shops that might
4 otherwise profess union working conditions. It can be
5 part of a public relations campaign to induce customers
6 to buy union-made products. It is a sign of good
7 workmanship and -- and quality standards. It's the
8 badge of union prestige to attract new members. It is
9 a warning against trespass by competitive unions.

10 Well, that means a lot of things. So the
11 whole idea that it's not -- it -- it doesn't have its
12 own meaning to it, just off of -- and I'm sure you
13 could find hundreds of other examples of similar type
14 of language on different, you know, Google whatever you
15 want around the internet. And I think this is kind of
16 common knowledge, right, is when you put that union bug
17 on your business cards, you're saying, I'm pro-union,
18 right?

19 And the problem with that, of course is that
20 we negotiate in this city with a lot of unions, and we
21 have some nonunion people as well; and we shouldn't be,
22 on our business cards, by the people voting on those
23 MOUs and those labor agreements, saying we're pro-union
24 or handing them out to developers saying, you know, I'm
25 pro-union, so maybe you need to hire union people on

1 your jobs. I have a problem with that.

2 Once again, and it's really not specifically
3 about the union bug, it's just as -- as specifically
4 used in this case. It would be any logo, any logo
5 going on those business cards that's not the City's
6 logo.

7 So where was I? So let's go -- why does the
8 union bug, in particular, relate to this case and why
9 -- what -- what should you be thinking about -- about
10 in the backs of your minds when you see the union bug.
11 Oh, big deal, Jason. What is -- you know, why is it a
12 big deal? Well, let's take a look at what perception
13 could lead to and why distrust of the public could --
14 could be introduced here and the integrity of the
15 system could be introduced.

16 Let's go to page 90 of your evidence. It
17 will probably take me as long to get there as you.
18 Page 90 is where we talk about -- I introduce all the
19 campaign finance figures, and they're on 91 in the
20 forward, right, there's probably about 71 pages of
21 people who -- who gave money to Ms. Plascencia during
22 her council race of 2019. And I say, cheerio, good for
23 her. She did a great job fundraising, okay?

24 That's not the point. The point is, let's
25 break it down and look at what were the union

1 contributions to candidate Plascencia in 2019. I
2 didn't look back in 2018. Maybe there were more.
3 Ninety-two thousand dollars. And there were probably
4 about 10,000 more of elected officials or people -- or
5 people, who were considered to be political people who
6 were supported by unions on top of that there was. You
7 know, all in maybe \$100,000 of -- of -- of
8 contributions that may have come from unions, 92
9 directly did. I'd say maybe 10,000 more indirectly
10 did.

11 So think about the perception of that in the
12 public when you take that kind of money, and then the
13 -- at your first council meeting, which was --
14 December 3rd was, your first council meeting in front
15 of the public, you asked to -- to -- to put on the next
16 agenda changing what you can put on the business cards
17 in -- in your -- in your city collateral.

18 And then the -- the -- the second meeting, as
19 a -- as a -- as a councilmember, you make the change,
20 and you do it in a way where the public has no idea the
21 hammer that's about to hit them. They have no idea
22 because it's nowhere on the agenda, it's nowhere on the
23 reports, and it's nowhere on the stuff that accompanies
24 the reports.

25 So let's go to page 9 of the record, if you

1 could, please. And on page 9 is the official vote of
2 that day at the council. Well, it's right there, the
3 collateral guidelines. The motion was made by
4 Councilmember Plascencia, so she led it; seconded by
5 Councilman Melendrez. And ayes were in favor were
6 Edwards, Melendrez, Fierro, Plascencia, and Hemingway;
7 and there were two councilmembers opposed.

8 And so how much time do I have left now? How
9 much time do I have left?

10 MS. ARSEO: You have ten minutes.

11 MR. HUNTER: Ten minutes, okay.

12 So I think I've already proven, I think,
13 beyond any doubt that the Sunshine Ordinance, that one
14 is easy to me, it was -- was violated. So let's get
15 down to what could have been possibly violated by
16 putting the union bug on the business cards. And I go
17 to the prohibited conduct section of our Code of
18 Ethics. And I think our Code of Ethics starts on page
19 163, for your record.

20 Hopefully, you guys are familiar with these
21 because you're hearing Code of Ethics complaints, so
22 you've got to know these kind of inside and out. So
23 I'll -- I'll lead you through them, right? There's
24 four, and I've -- I've included them in my original
25 complaint. And maybe I'll go to the original

1 complaint, which is on, I think it's on -- maybe even
2 page -- page 3, and you'll see I checked off four of
3 the boxes.

4 Use of city resources for non-city purposes
5 prohibited. Advocacy of private interest of third
6 parties in certain -- certain circumstances prohibited.
7 Endorsements for compensation prohibited in violation
8 of -- of government code section 87.100, et cetera, et
9 cetera.

10 So I -- my -- my complaint is basically this,
11 is this using city resources for non-city purposes. I
12 mean, we're kind of advocating, once we put that union
13 bug on, in -- in favor of -- of -- of unions. In -- in
14 the next one, it actually says, advocacy of private
15 interests, which union are -- unions are of third
16 parties in -- in certain circumstances -- circumstances
17 prohibited.

18 And the -- the next violation is endorsements
19 for compensation. And so this -- you know, if -- if
20 you get money from unions to run your campaign and then
21 you turn around and say, I'm pro-union on your business
22 card; isn't that kind of endorsements for compensation?

23 And then lastly, I -- I -- I would ask that,
24 this is such a muddled mess, that if the -- if the --
25 if the panel isn't completely sure that this didn't

1 violate the FPPC guidelines, please forward it onto the
2 FPPC, as an ethics -- an ethics hearing. I can do it
3 individually, as well as -- as an individual, but those
4 are the four things I think have been violated.

5 I'd like to close. I've got a few minutes
6 left. Can we cue up the meeting from -- from
7 December 17th? And I'm just going to play that with
8 the remaining of my 25 minutes. Because I think the
9 most relevant portion of it is the beginning of the
10 meeting anyway. So can we cue that up so people can
11 see what -- how this played out and how concerned many
12 of the city councilmembers were about what was going on
13 here and transpiring very quickly before their eyes?

14 Can we play that, IT?

15 And can I not lose my time on this while I'm
16 waiting for it?

17 CHAIR FOLEY: Dave.

18 MEMBER STAHOVICH: Could we take about a
19 three-minute break while they're cueing up that video,
20 if that doesn't -- if that's okay with Mr. Hunter?

21 MR. HUNTER: That's fine with me. We'll take
22 a three-minute break.

23 MEMBER STAHOVICH: If that's okay. -- it's
24 got --

25 CHAIR FOLEY: Dave, can you --

1 MEMBER STAHOVICH: -- to be okay with the
2 Chair.

3 CHAIR FOLEY: Well, is the video ready?
4 Because I see the -- is the video ready at this moment?
5 Answer. Maybe. It is. So we could -- if people feel
6 they need a break, I don't have any problem with doing
7 a three-minute break. Do people need a break? That's
8 fine.

9 MEMBER STAHOVICH: If -- if it's -- if it's
10 ready to go, we can take a break after his testimony --

11 CHAIR FOLEY: Okay.

12 MEMBER STAHOVICH: -- is finished then.
13 Sorry.

14 CHAIR FOLEY: Okay, all right. Let's go. Go
15 with the video, please, Scott.

16 (Video started)

17 COUNCILWOMAN PLASCENCIA: And so I know as
18 individuals, we can --

19 MAYOR BAILEY: City Council collateral
20 insignias for official city business.
21 Councilwoman.

22 COUNCILWOMAN PLASCENCIA: Thank you. So in
23 2015, the council at the time wanted to change the
24 logo, and so I know as individuals, we can decide what
25 logo we want on our council cards. And so I wanted to

1 bring this to discussion, as I'd like to add an
2 insignia to mine, which is the labor bug. So, you
3 know, I wanted to hear everyone's, you know, input and
4 see what they think. So as individuals, you can choose
5 to have the emblem you see here on the wall or the city
6 logo on your card.

7 So I think individually we can choose certain
8 things that we add. And so personally, I'd like to add
9 that onto my card.

10 MAYOR BAILEY: Any other discussion on that?
11 Councilman Conder.

12 COUNCILMAN CONDER: Yeah, Mayor. This
13 government supports all personnel, whether they're
14 union or not. This is a bad precedent to set. If this
15 goes forward, then I will be recommending that the Ward
16 5 councilman be removed from all dais and
17 closed-session discussions referencing anything to do
18 with union negotiations, any votes on the salaries, as
19 she has clearly made up her mind of where she is going
20 to go. And this is a bad thing to do for an open
21 government that supports all.

22 MAYOR BAILEY: I don't -- I haven't looked
23 directly at the ethics, the Code of Ethics. I know it
24 -- it calls for us to be nonpartisan and to try to be
25 as objective as possible. And so I -- I would --

1 before we make a decision, at least ask the -- the
2 Board of Ethics to look at that for us and to -- to vet
3 it through -- through their view and -- and -- and
4 perspective and -- and the code, specifically.

5 I think that that would be a great place to
6 start the conversation to have them give us a
7 recommendation towards -- towards your -- your -- your
8 suggestion.

9 Councilman Perry.

10 COUNCILMAN PERRY: Thank you. I'm not sure
11 who to direct this question to. I -- I guess my -- I
12 -- I don't really have an issue with this particular
13 request, but where does this open us up down the line?
14 And I'm not sure to direct this to the city attorney or
15 if this goes to Board of Ethics.

16 MR. HUNTER: I'm fine. If you could stop it
17 right there. That's fine.

18 COUNCILMAN PERRY: I understand the -- the
19 request behind this, but --

20 (Video stopped)

21 MR. HUNTER: Thank you very much. And so with
22 that, I'd like to -- the -- you know, I think that
23 describes -- describes the quandary that the -- that
24 the council was put in that day. It obviously went
25 forward and passed 5, 2. There was one public comment

1 offered, and it was by me. And I just happened to be
2 in the chambers that day -- day.

3 I was down there to go talk about something
4 to do with RPU of all things, and this hit me like a
5 ton of bricks because I -- it wasn't on the agenda, and
6 I read every agenda. It wasn't in the memorandums, and
7 I read all the memorandums. And it wasn't in any of
8 the accompanying reports. This was kind of a sneak
9 attack on the public and even to the council to some
10 extent who wanted this further vetted.

11 And I think, you know, hopefully I've -- I've
12 -- I've proven my case. I'll sum it up a little bit
13 better at the end, but -- and -- and I have some --
14 some other stuff to -- to give on rebuttal. So I'm
15 done with my 25 minutes. Thank you very much.

16 CHAIR FOLEY: Thank you, Mr. Hunter.

17 I have some questions of -- of you and -- for
18 you and one of your witnesses. I'd like to ask them
19 now. Oh, I'm sorry, Dave. Let's take that short
20 break. Okay. Sorry about that.

21 Eva, can you give us a three-minute break?

22 MS. ARSEO: Yes, I'll put it on the timer.
23 Thank you.

24 CHAIR FOLEY: Thank you.

25 (Break)

1 CHAIR FOLEY: There is Gloria. Okay, all
2 right. So I have -- is everybody back? I can't see on
3 here.

4 Brandon, are you back?

5 MS. ARSEO: He is on.

6 MR. MERCER: Yes, I'm back.

7 CHAIR FOLEY: Okay, all right.

8 Okay, all right. Mr. Hunter, I did have a
9 question for you. When you looked at how much money
10 that the unions had donated to Councilwoman Plascencia,
11 did you look at how much money the unions had donated
12 to other City Council candidates at the same time?

13 MR. HUNTER: No, I didn't.

14 CHAIR FOLEY: So then you don't know whether
15 this 92,000, whether or not it's equal to others,
16 greater than, or less than what others may have
17 received; is that correct?

18 MR. HUNTER: I mean, would I say that it's --
19 it's more than your -- your typical city councilman
20 gets in an average election cycle or even more than,
21 and substantially more than, other council candidates
22 got in the 2019 election; yeah, it's -- it's
23 considerably more. I don't have the exact numbers, but
24 it's going to be, you know, I would guess maybe ten
25 times multiple, maybe five times multiple. It will be

1 considerably more --

2 CHAIR FOLEY: But you don't have any --

3 MR. HUNTER: -- than --

4 CHAIR FOLEY: -- evidence, because you didn't
5 -- you didn't investigate that, correct?

6 MR. HUNTER: Well, I look at those 460s pretty
7 much every single cycle. So off of just plain old
8 regular memory, did -- let's say, for example, the Ward
9 5 race, did the candidate Mill get \$92,000 of union
10 benefits or -- or either nonmonetary or -- or monetary;
11 for sure not. My guess is he received probably close
12 to nothing.

13 CHAIR FOLEY: Okay. Thank you.

14 All right. Colleen, I have some questions
15 for you. So do you review all of the items, the
16 Sunshine, whether or not they're legal, before -- you
17 or a member of your staff, before they're submitted?

18 MS. NICOL: I do. I'm going to answer. My
19 computer is automatically -- will be rebooting in a few
20 minutes, so if I go off, I'll come right back on. But
21 yes, when any item is submitted, we review the Sunshine
22 Ordinance to make sure it complies with all the
23 regulations.

24 CHAIR FOLEY: Okay.

25 MS. NICOL: Absolutely.

1 CHAIR FOLEY: And when you -- so when someone
2 uses the Sunshine excuse and -- and they say it was
3 urgent, do you evaluate whether there's an urgency --
4 there's an urgency or not?

5 MS. NICOL: The ordinance that's provided to
6 you that was in place at the time when this item came
7 forward did not define the term urgent. That just --

8 CHAIR FOLEY: Okay.

9 MS. NICOL: -- was saying, what -- if a -- one
10 councilmember believes the item is urgent, it's
11 concurred with by a second one, signed by a second one,
12 that's -- that one item -- one member believed it was
13 urgent, those two members; that's all it takes.

14 CHAIR FOLEY: Okay.

15 MS. NICOL: So their signature to me signified
16 that they believed it was urgent.

17 CHAIR FOLEY: Okay. Gloria, I see you. I
18 just have one more question.

19 So is this a rare practice for someone to use
20 the excuse of the Sunshine urgency, or is it a more
21 standard practice?

22 MS. NICOL: It -- it happens very frequently.
23 I wouldn't say -- not every meeting, but many meetings.
24 And for instance, when COVID hit, there were late
25 breaking policy proposals by the councilmembers, and it

1 was -- it was invoked at that time, too. So does it
2 happen every meeting; no. Is it uncommon; no.

3 CHAIR FOLEY: Okay. And -- and to your
4 knowledge, is this language of urgency or whatever it
5 means, is this under review?

6 MS. NICOL: The City Council has since
7 considered an ordinance to -- the definition of urgency
8 is not something that a staff member can weigh on.
9 It's -- it's a political, not a technical decision. So
10 the council, moving forward after this ordinance, I
11 don't -- I don't believe it's been fully adopted and --
12 and implemented yet, but it's in the process; when that
13 is fully adopted, it will require a two-thirds vote of
14 the council to -- to determine the urgency, to make a
15 finding of urgency, then the matter would be discussed.
16 That was not in place when this item was considered.

17 CHAIR FOLEY: Okay, okay. Gloria.

18 MEMBER HUERTA: Dave had a question before I.

19 CHAIR FOLEY: I think -- oh, okay.

20 Dave, I -- sorry, Dave, I -- I didn't see
21 that you were -- I had another Dave there. Go ahead.

22 MEMBER STAHOVICH: No worries. I -- I
23 actually think Colleen just asked -- answered my
24 question. I was going to ask her, at the time this
25 occurred, did she or any other staff have the -- have

1 the ability to overrule the request, and she already
2 said no. It's a -- it's a political issue. And that
3 -- that -- I understand that now.

4 CHAIR FOLEY: Okay, all right. Gloria.

5 MEMBER HUERTA: And I think mine is similar,
6 but I would like to clarify that there is -- is not
7 currently, nor was there at the time, a process where a
8 city employee could overrule or override the request of
9 two city councilmembers. I'd like that on the record
10 if Colleen can answer that.

11 MS. NICOL: It -- it is true, that -- that is
12 the not the case.

13 CHAIR FOLEY: At the time of that this event
14 took place, I believe it only required -- it -- it
15 didn't require two additional, it just required the
16 person proposing it and then -- and one additional.

17 MEMBER HUERTA: Correct. That's what -- that
18 was my comment was two.

19 CHAIR FOLEY: Okay.

20 MEMBER HUERTA: I have another question, kind
21 of a follow-up question. Are you aware of any training
22 that would have been provided to the city
23 councilmembers so that they were aware of, number one,
24 the Sunshine Ordinance and the compliance requirements,
25 and number two, of the ethics board, our ordinances and

1 the expectations for city councilmembers?

2 MS. NICOL: On page 217 of your packet, that
3 question was asked, in part, by Mr. Hunter. And the --
4 the answer is the same actually for both laws. When
5 they were onboarded, there was a presentation by the
6 city attorney and myself where we covered the
7 provisions of the Sunshine Ordinance, as well as the
8 Code of Ethics and Conduct. They are required to have
9 that training. And we have a certificate for the Code
10 of Ethics and Conduct training. So yes, they were
11 provided training.

12 MEMBER HUERTA: And -- and that was prior to
13 the actions on the dates of December 3rd and
14 December 14th, correct?

15 MS. NICOL: That is correct.

16 MEMBER HUERTA: Thank you.

17 CHAIR FOLEY: Now, I have another question.
18 Colleen, so in that training, are they given a
19 definition of what urgent means?

20 MS. NICOL: They were just given the
21 provisions of the code in existence at the time.
22 Urgent was not defined. So no, we did not provide a
23 definition of urgency. The urgency test, again, was
24 just a councilmember with a second signature placing an
25 item on the agenda. They deemed it to be urgent.

1 CHAIR FOLEY: Okay. Jessica, do you have a
2 question?

3 MEMBER NEWMAN: Yes, thank you.

4 Sorry, I was a little confused, because on
5 page 217, it asks if Councilwoman Plascencia received
6 training, and it says on December 6th she participated
7 in an orientation, and I thought they were -- that
8 Colleen was saying that her training was prior to the
9 3rd.

10 MS. NICOL: I stand corrected, it was prior to
11 the 17th, but the training did occur on December 6th.
12 Thank you.

13 CHAIR FOLEY: Okay. Are there any more
14 questions for Mr. Hunter or any of Mr. Hunter's
15 witnesses? Okay. I think then that means that we can
16 proceed. Okay.

17 MEMBER HUERTA: I -- I do have one more
18 question. I'm sorry. It's Gloria.

19 CHAIR FOLEY: Okay.

20 MEMBER HUERTA: In part of the video that --
21 and this is for Colleen -- part of the video that we
22 looked at on December 17th and also on December 3rd,
23 there was discussion about the Sunshine Ordinance, as
24 well as whether things should go to any committees,
25 whether it should go to Governmental Affairs or whether

1 the item that was voted on, on the 17th, should go to
2 the ethics board.

3 Colleen, in your knowledge and experience and
4 recollection of those two meetings, were any of those
5 items referred to any entity other than the City
6 Council?

7 MS. NICOL: No, they were not. What was
8 discussed then was not referred to a standing committee
9 or -- or -- or the Board of Ethics. It did -- it did
10 go directly to the City Council as requested by the
11 councilwoman.

12 MEMBER HUERTA: Thank you. I -- I have no
13 further questions.

14 CHAIR FOLEY: Okay, good.

15 So does anybody else have a question before
16 we proceed?

17 Dave.

18 MEMBER STAHOVICH: Now, I've -- I've gone
19 through the evidence, and I remember -- I don't
20 remember exactly where it is, maybe Mr. Hunter might, I
21 know it's all a discussion of at the prehearing, but
22 there was discussion about the agendas that are in the
23 lobby of the council agenda -- the council meeting
24 room, and that it was my understanding that some of
25 those agendas may not have even had the item 7A listed

1 on them.

2 Colleen, can you speak to that?

3 MS. NICOL: We -- we produce copies of the
4 agendas. And then when it was -- it republished to add
5 the other -- the additional items, not just this one,
6 but two others. So inadvertently, a couple of the
7 former agendas were -- were left in the stack
8 unfortunately. But the bulk of the stack was the
9 revised agenda. So one or two of the older agendas
10 somehow just got left in the bottom of the pack or the
11 top of the pack.

12 MEMBER STAHOVICH: Okay. So let -- let me
13 clarify the question. So were the -- the -- what I was
14 just really getting -- there were, in fact, some, I
15 guess, old agendas available for the public at that
16 time, inadvertently or otherwise; is that correct?

17 MS. NICOL: I believe someone bringing that to
18 my attention, I just can't remember for certain; but
19 it's -- it's not that unlikely.

20 MEMBER STAHOVICH: Okay. Thank you.

21 CHAIR FOLEY: Okay.

22 MEMBER HUERTA: And, Freya, we have a
23 question from Taylor, and then Jason has his hand
24 raised.

25 CHAIR FOLEY: Okay. Taylor, go ahead.

1 MEMBER KEEN: Dave just asked my question.

2 CHAIR FOLEY: Okay.

3 MEMBER KEEN: So thank you, Dave.

4 CHAIR FOLEY: Okay. How did she get there? I
5 missed her before Dave. Okay.

6 Jason, Mr. Hunter.

7 MR. HUNTER: Can I speak -- can I speak to
8 that point for Mr. -- for -- for -- for panel Member
9 Stahovich is that I believe that point was raised in
10 the prehearing conference by a member of the public who
11 spoke and said that he had gone to the meeting and
12 pulled one of the agendas from the table and there
13 wasn't even a 7A on it, so I think that's where you're
14 getting that from. I -- I don't think -- I don't think
15 it was from me.

16 MEMBER STAHOVICH: No. That -- that was in my
17 notes as well.

18 CHAIR FOLEY: Okay. Gloria.

19 MEMBER HUERTA: I -- I just wanted to also
20 confirm what Jason -- Mr. Hunter just said. If I
21 recall, we also had, at some point, it may have been in
22 public comments for our prehearing, a pretty detailed
23 summary statement from a local attorney, who happened
24 to be aware of the situation, who shared with us his
25 concern about multiple agendas, as well as the lack of

1 notice and the lack of clarity he perceived to be to
2 the item that was actually presented to City Council
3 that day.

4 That's not in this packet. I thought I had
5 it with me, but I do not.

6 CHAIR FOLEY: No. It was part of the -- I --
7 I think it was a call in. It was a call, I believe.

8 So, Colleen, so the question is, again, so is
9 this -- so in general, do the old -- are the old
10 agendas out there with the new agendas, or does your
11 office make an effort to ensure that only the correct
12 agendas are out there? How does it work? How does it
13 work --

14 MS. NICOL: There is always --

15 CHAIR FOLEY: -- (indiscernible)?

16 MS. NICOL: There is always an effort to
17 discard the old agendas. So if there was one left
18 there, it was completely inadvertent, and it does not
19 happen routinely.

20 CHAIR FOLEY: Okay, okay. Dave.

21 MEMBER STAHOVICH: Just whenever everybody is
22 ready, I'm ready to hear some testimony from
23 Councilwoman Plascencia.

24 CHAIR FOLEY: Are you saying you're ready to
25 move on?

1 Okay. So, Councilwoman Plascencia.

2 COUNCILWOMAN PLASCENCIA: Hello. Thank you,
3 Madam Chair and commissioners. I wasn't sure if it was
4 at that point. I thought Jason still had his closing
5 remarks.

6 CHAIR FOLEY: Well, he can make -- he can make
7 them later at the end. You can make yours at the end.
8 Now, you -- you can make an opening statement now, if
9 you choose to or you can, you know, choose not to make
10 an opening statement; but I think you said you wanted
11 to make an opening statement. But before you do that,
12 Dave wants to speak.

13 Dave.

14 MEMBER STAHOVICH: Actually, you're doing a
15 good job explaining. I was going to put out there that
16 before she starts her case in chief or her defense in
17 chief, she has an opportunity at this point if she
18 would like to now make an opening statement before she
19 even gets into her case. And that same applies, the
20 15 minutes for opening and closing. You can split it
21 any way you want, if you need it all or a portion of
22 it. Thank you.

23 COUNCILWOMAN PLASCENCIA: Okay.

24 CHAIR FOLEY: You need to make your decision
25 as to whether or not you want to do an opening, and

1 then after that you can make your decision as to how
2 much time you want to spend. And at the end, after
3 you've done your presentation, both you and Jason can
4 do a closing statement.

5 COUNCILWOMAN PLASCENCIA: Oh, okay. I thought
6 he was going to do his statement and his closing
7 statement and then I can do my presentation.

8 CHAIR FOLEY: No. You're going to do your
9 presentation. You're going to make your opening
10 statement, if you so choose to do, make your
11 presentation, call your witnesses. And then when you
12 -- you're done, Jason can actually cross-examine you
13 and any direct testimony that you had or you -- that
14 you can also ask, I believe, rebuttal questions.

15 COUNCILWOMAN PLASCENCIA: Okay.

16 CHAIR FOLEY: So -- so do you have any
17 questions about the process or how you'd like to
18 proceed?

19 COUNCILWOMAN PLASCENCIA: No. Thank you for
20 clarifying. So I will go ahead and get started. So I
21 have 15 minutes?

22 CHAIR FOLEY: Well, are you going to do an
23 opening statement? You have 15 minutes for your
24 opening and closing statement.

25 COUNCILWOMAN PLASCENCIA: Oh, okay.

1 CHAIR FOLEY: So you have to decide how much
2 of the time you want to spend on your opening and how
3 much of the time you want to spend on, you know, your
4 closing statement. And Eva will time you so that if
5 you have like -- if you want to have ten minutes or
6 something or eight and a half minutes or whatever for
7 your -- for your opening statement, you can tell Eva,
8 and Eva will tell you when you can no longer do your
9 opening statement; or you can do what Mr. Hunter did,
10 you can just talk and then let her tell you how much
11 time you have left for your closing statement. Those
12 are all those options for you.

13 COUNCILWOMAN PLASCENCIA: Okay. Thank you for
14 clarifying. I think I'll do what Jason did and just
15 kind of give my statement and then if I run out of
16 time, Eva can let me know, and I'll be quiet.

17 CHAIR FOLEY: Okay.

18 COUNCILWOMAN PLASCENCIA: Well, thank you for
19 this opportunity. I -- you saw my response, and I'm
20 sure you all read everything that I submitted. And as
21 you've seen, I actually submitted some of the same
22 clips that Jason did, because -- I mean, I'm glad he
23 played them, and I will get to that in a minute. But I
24 just wanted to, in my own words, you have my statement
25 so I don't want to sit there and bore you to death and

1 read it, but, you know, when we were onboarded, as
2 Colleen mentioned, prior to that I met with our city
3 manager, Al, and, you know, just to talk about the
4 process, how you do things. As you know, it's -- it's
5 very overwhelming. There's a lot of, you know, our
6 city charter, policies, just all these things.

7 And so we talked about the business cards,
8 because that's kind of the first thing you do. And so
9 I was eager to get my business cards, as well as I know
10 some of my colleagues were, because that's -- we were
11 eager to go out, I know my office was, to introduce
12 ourselves to our constituents and give them our
13 business cards so they know how to get ahold of us.
14 And so that's how the conversation started with myself
15 and Al.

16 And so being that I was new, I didn't know
17 how to go about that. So if you saw the clip of the
18 agenda of the -- of the December 3rd meeting where I
19 asked, and you can see I'm nervous, and actually I was
20 reading some words that Al had prepared for me, and
21 because I just wasn't sure how to word it. And as you
22 saw, I was a bit nervous. I didn't want to come off
23 too pushy. So that's why I asked if at the next
24 meeting possible.

25 And in the meantime, you know, I -- when the

1 next agenda item came out, I saw that it wasn't on
2 there, and at that point, you know, my office, my
3 assistant and I just really wanted to get out there and
4 get them done, the business cards. I spoke to Al, and
5 he said, oh, okay, you know, we'll -- we'll -- we'll
6 put it on the agenda.

7 I've only once, I think, since I've been in
8 office, and Colleen can testify to this, even though
9 she's not my witness, I've only written one -- one
10 report, which actually I think Colleen had written the
11 report because I didn't realize I had -- so I'm still
12 learning, I guess that's my point.

13 So this agenda item, staff just said, okay,
14 we'll put this together. Let's add the -- the branding
15 by handbook and all those things. And I said, okay.
16 So even though you see my signature on the bottom of
17 the report, yes, I agreed to it, but I didn't write it
18 because I, you know, I am obviously new and I am
19 trusting staff that were doing all the right things.

20 And as you saw in one of the video clips, the
21 city attorney explained whether, you know, you agree
22 with his opinion or not, as a councilmember, he is the
23 city attorney, he represents us as a council, as a
24 group; and so I had no reason to question those things.
25 And as you saw in the -- in the attachments, my

1 business card, it doesn't have the City logo, it has
2 the new City Council logo that my predecessors or our
3 predecessors agreed to. So, you know, I just wanted to
4 explain that.

5 So when -- when I spoke with Al and he said
6 we can put it on the next agenda and then it was about
7 process, we need two -- because of the Sunshine
8 Ordinance, as part of it, to ensure we are meeting the
9 requirements, we needed the two signatures; and that's
10 why myself and my colleague, Councilmember Fierro
11 signed.

12 As was mentioned by Colleen earlier, we have
13 not defined urgency. And I know we're in conversations
14 about that. And since then, we've -- we've made some
15 changes to that ordinance, which I supported. But when
16 you're new, you're trying to learn all these things,
17 and I lean on staff. And -- and they did a great job
18 supporting me through the process, explaining things to
19 me.

20 You know, truly we didn't believe that we
21 were doing anything unethical. Obviously, we knew we
22 weren't doing anything illegal because we always
23 consult with our city attorney's office, but I was very
24 grate grateful to the city manager and the city clerk's
25 staff for helping with this report and getting it put

1 on the agenda. And they don't interpret, right, as
2 Colleen mentioned, you know, they don't interpret
3 urgency or anything like that. And so we met all the
4 requirements.

5 The urgency was, you know, not that it was
6 defined in our ordinance, but us wanting to get out
7 there. And, you know, when staff attached those
8 things, the -- the branding manual and all -- and we
9 thought that was sufficient. You know, we weren't
10 trying to, I think Jason said be sneaky, we weren't
11 trying to be sneaky by any means.

12 You know, in hindsight, maybe we should have
13 taken it to one of the committees to vet it, you know.
14 Hindsight is 20/20, right, where we're at a point where
15 we -- you learn. You know, there's a learning curve to
16 everything.

17 And so, but I -- I think staff did they --
18 the best they could with what we were asking. And I --
19 you know, we lean on them for support. And like I
20 said, in -- in my -- in my response, was that we met
21 all the requirements, you know. We were not trying to
22 -- to hide anything. We make a lot of decisions as
23 councilmembers, and we -- we do our best to stay, you
24 know, very transparent with the community. And so I
25 think that's why we are working on defining urgency and

1 we changed to the new Sunshine Ordinance where we added
2 another signature and all those things.

3 But I hope that you read through the rest of
4 -- of my response. And I know that Jason wanted to
5 throw out, you know, just what other cities have done,
6 and I get that, and -- and that's fine. But again, I
7 felt that we met all the criteria, and we were just
8 doing what we thought was best. And, you know, I -- I
9 never imagined that we'd have to -- you know, now with
10 this, I -- I think now when we put agenda items, do we,
11 you know, meet with the ethics committee to make sure
12 that down the line I'm not going to be accused of being
13 unethical for something that we put on the agenda, even
14 if it's agendized two weeks ahead of time, right?

15 So I appreciate the time and opportunity to
16 explain my rationale for adding this agenda item.
17 Thank you.

18 CHAIR FOLEY: Councilwoman Plascencia, are you
19 going to call your witness?

20 COUNCILWOMAN PLASCENCIA: Yes. So everybody
21 knows Al.

22 And so, Al, if you would like to contradict
23 or confirm kind of what our conversations were when we
24 talked about these items, and maybe kind of your
25 perspective on how we came about putting the

1 information for the report together. You're muted.

2 Thank you.

3 MR. ZELINKA: Thank you, councilwoman,
4 members of the Board of Ethics. I'll do my best to
5 convey my understanding of everything that went on, and
6 I'll be happy to answer any questions to the best of my
7 abilities. So for context, well before the
8 November 2019 election, the city team, as Colleen
9 stated, starting preparing for the transition from the
10 outgoing council to the incoming City Council. And I
11 believe, and Colleen can correct me on this, but I
12 believe it was something like 40 years or thereabouts
13 that we've had such a transition of so many
14 councilmembers at the same time.

15 But part of that preparation, as -- also as
16 Colleen mentioned, included onboarding and orientation
17 processes for the councilmembers-elect, so they were
18 equipped as much as possible when they assumed office
19 on December 3rd.

20 When -- and -- and, you know, I've gone back
21 and tried to look through all my Outlook meeting
22 archives and notes and emails to compile this for you,
23 but as -- I -- as the councilmember, in her response
24 indicated, we had met. And I believe, based on my
25 Outlook archives, we met on November 12th of 2019. And

1 we talked about a whole range of -- of items, as the
2 councilwoman indicated. There -- there's -- it's
3 drinking out of a fire hose, and there's so much to
4 talk about.

5 During that conversation, the councilwoman,
6 then the councilmember-elect, indicated interest in the
7 union bug logo on her card. And while I have family
8 members in Pennsylvania that are in various unions, I
9 was not familiar with the logo myself, but was aware of
10 the City's adopted brand standards. And I did recall,
11 and I -- I do recall the time when the councilmember --
12 or the City Council, in 2015, brought to their body the
13 seven-starred logo that was mentioned earlier. So
14 those two items I do recall coming to mind.

15 I -- I do -- our former executive assistant,
16 Shanae Smith, she helped an awful lot during -- during
17 the onboarding and orientation process. She sent out
18 welcoming emails to the councilmembers-elect. And --
19 and as I understand, her communications were about
20 logistical details, what you need to expect about your
21 city email, your mobile phone, your business cards, et
22 cetera, and a schedule of meetings that would be
23 forthcoming with the city team and department heads to
24 get oriented to all of the things going on in the city.

25 The -- as I -- as I understand, from Shanae,

1 the -- I think it was the next -- the next day, Shanae
2 received a call in response to the email from multiple
3 councilmembers, but -- or other councilmembers, I don't
4 know who all, but Councilwoman-Elect Plascencia
5 communicated with Shanae about a lot of those logistics
6 and -- and mentioned or had conversations about,
7 brought up the topic of the union bug, or had a
8 conversation with Shanae about the topic.

9 Shanae brought that to my attention, and
10 Rafael Guzman, my assistant city manager. A few days
11 later, Rafael inquired from the city attorney's office
12 about any -- any ordinances or policies that may exist
13 pertaining to the union bug insignia. Rafael had much
14 more of an understanding of such matters as -- as the
15 union bug because of his long tenure in public service.
16 So he reached out to the city attorney's office to get
17 some initial feedback.

18 At that time, as I recall from reviewing
19 emails and -- and such, the city attorney's office
20 could not find any policy or -- or that specifically
21 addressed this, but the city attorney's office agreed
22 that since the business card is an official city
23 business item, the council as a whole would need to
24 create a policy or -- or -- or opine, if you will, for
25 the non-city items that are in the branding manual, et

1 cetera.

2 Then fast-forward, I believe, and this is
3 all, you know, I'm doing my best here because this is
4 all out of my Outlook meeting archives and Outlook, on
5 -- on or around November 26th, I believe I spoke with
6 Councilwoman-Elect Plascencia in the morning about the
7 upcoming December 3rd meeting, and -- and -- and the
8 conversation was about how to refer the topic of the
9 union bug logo for future consideration. Again,
10 because as the councilwoman stated, she, as a new
11 councilmember, this is all new, this -- this whole --
12 this whole process of how things occur in the city is
13 -- is new.

14 I, as the councilmember indicated, I prepared
15 draft text for the councilwoman that -- that provided
16 the -- the -- the citation to the resolution, the
17 council Rules of Procedure that -- that allow
18 councilmembers to request future items on
19 consideration. And because I was trying to be helpful
20 to the councilmember, I did note on that language that
21 the councilmember -- woman-elect should edit the
22 preceding, the text, and add anything that she needed
23 to add to convey the underlying reasons she's
24 requesting this item.

25 So and then I don't recall how, I do have

1 this in my email notes, it was a note to myself, I
2 don't recall specifically if I forwarded -- forwarded
3 that text, printed it out, gave it -- gave it to her, I
4 don't recover that -- that detail; but nonetheless, as
5 you heard on the video, as the councilwoman said, there
6 was a paragraph of text that I had crafted.

7 So at that time, contextually, it was my --
8 my understanding that it would -- it would -- we would
9 build this request into our work plan for -- for a
10 future council meeting. So on the -- on the morning of
11 December 3rd, anticipating this coming forward, I
12 emailed the city attorney and -- and -- and asked -- or
13 and -- and pointed out that the councilmember-elect
14 will like -- likely ask for this policy discussion and
15 -- and asked to let me know if the city attorney will
16 handle the discussion on this topic, you know, dealing
17 with First Amendment issues, et cetera, or if we, the
18 city manager's office, should be prepared.

19 The -- the guidance from the city attorney's
20 office was that this is a policy issue, many -- and
21 that many cities include the union bug, and it's --
22 it's generally -- and I don't understand this, didn't
23 inquire, but it's -- it's more expensive than generally
24 a council decision. That must be related to printing,
25 whether it's a union shop or not a union shop, but I'll

1 let that for others to interpret.

2 I replied, okay, if the City Council wants to
3 have a discussion about the union bug, does that open
4 the door for any councilmember to put any other logo on
5 their card. And the response to that was the generally
6 accepted logos are quote-unquote union, quote-unquote
7 recycled, quote-unquote affirmative action, equal
8 opportunity employer; and that the city attorney's
9 office hadn't seen any others. So that was the
10 guidance walking into the council meeting.

11 And as you indicated, and as was on the
12 video, the councilwoman asked for staff to -- the city
13 manager, city attorney to add this to an upcoming
14 council meeting. I --

15 COUNCILWOMAN PLASCENCIA: Oh, I'm sorry, can I
16 just add -- I know there's --

17 MR. ZELINKA: Go ahead.

18 COUNCILWOMAN PLASCENCIA: -- the chat about
19 the timing. Do we still have time? I was confused by
20 that. I just don't want to get --

21 MR. ZELINKA: I'm (indiscernible).

22 COUNCILWOMAN PLASCENCIA: -- and I'll get cut
23 off.

24 MR. ZELINKA: I'm (indiscernible).

25 CHAIR FOLEY: You have 25 minutes in total.

1 How much time does she have left, Eva?

2 MS. ARSEO: She has six minutes left. I
3 paused it.

4 MR. ZELINKA: And I'm -- I'm done in about
5 three minutes probably.

6 COUNCILWOMAN PLASCENCIA: Thank you.

7 CHAIR FOLEY: Okay.

8 MR. ZELINKA: On -- on Thursday, December 5th,
9 I emailed the city management -- management team with
10 several -- three to-do items. One was about the FOL
11 horse carriages, one was about this topic, and one was
12 -- was about billboards. Those were items for future
13 consideration so that my team could put it into the
14 word program. And that email had a bunch of my initial
15 thoughts about what the -- the staff should consider in
16 the policy discussion to the full City Council.

17 And I -- I asked Lea Deesing on my team to
18 lead that effort. And Lea then, I think it was either
19 that -- it might have been that day, that Friday, as we
20 often do, started working with Brandi Becker, our
21 principal management analyst -- analyst, to start
22 preparing for a staff report, you know, just to get the
23 ball rolling, because we figured that this would be a
24 future -- a future item.

25 So then as I understand, the -- I don't -- I

1 don't -- I think I guess 12 days, so that would make
2 the 17th, would be the 5th of -- of the same day, the
3 5th of December, the agenda published. It wasn't on
4 there. And as the councilwoman indicated, and I don't
5 know what the date was, it -- it was either the -- the
6 -- I don't know what the date was. I don't know if it
7 was the 5th, the 6th, the 7th, I -- I don't know the
8 date; but the -- the -- the request was made how -- how
9 can I -- I would like it on the 17th, to go on the
10 17th.

11 And -- and I -- I, you know, was -- you know,
12 on my oath, I can't -- I can't tell you specifically
13 what I -- I conveyed, but probably along the lines of
14 what Colleen said, since the councilwoman saw this as a
15 matter -- a matter of urgency, because she wanted to
16 get a business card out on the streets and wanted
17 conclusion to this interest that she has brought up,
18 that she wanted it on the next council; and so I
19 probably conveyed, well, there's probably a way to go
20 through the Sunshine Ordinance because it was, as
21 Colleen said, commonly understood that if two
22 councilmembers saw a matter as urgent, then it would go
23 forward.

24 And so there's a lot more specifics that I
25 can provide, but we started working quickly to pull

1 together a shell of a presentation. And I think by
2 around the 9th, that shell was drafted, and somewhere
3 between the 9th and the 12th, according to Lea and
4 Brandi, there -- I think there was a -- maybe a brief
5 phone conversation or somehow there was a conversation
6 about -- from the councilwoman and either Lea or
7 someone -- on -- on edits to the draft report, and then
8 it was provided for the -- for the councilwoman, and as
9 everyone knows, Councilmember Fierro to write -- to
10 sign it, to put it into the -- the publishing process.

11 So there's a lot more detail, but of course I
12 don't have the time to share.

13 COUNCILWOMAN PLASCENCIA: Thank you.

14 So the -- that's it, right? I mean, I don't
15 know what -- what's next.

16 CHAIR FOLEY: Well, are you done with -- with
17 your presentation? I mean, how --

18 Does she have any minutes left, Eva?

19 MS. ARSEO: She has two minutes left.

20 CHAIR FOLEY: You have two minutes left to use
21 to present your case in chief if you have anything you
22 wanted to add to that. You know, you -- you'll have a
23 time later to do a closing statement. Now you're just
24 trying to finish up your primary case.

25 COUNCILWOMAN PLASCENCIA: Thank you. I just

1 wanted to add, when -- I do remember that Shanae was
2 going to order, because there were so many new -- new
3 councilmembers, was going to order all of them at the
4 same time; and so I think they wanted to do one order,
5 so we were trying to rush to get that approved so that
6 we could order them at the same time. But I remember
7 that -- that going on as well in my conversation,
8 because the city manager's office was -- was going to
9 order the first cards or something like that, and then
10 after that, we'd get a budget for our supplies.

11 I was surprised when I came to City Hall. We
12 don't even have pens here. We have to buy everything.
13 And as a school counselor, we have obviously a lot of
14 supplies at work. So the budget we get is for all
15 those things. And so I just wanted to highlight that.
16 That was another thing that I felt pressure because
17 others wanted to order their cards. And as I think
18 Jason mentioned --

19 CHAIR FOLEY: Excuse me --

20 COUNCILWOMAN PLASCENCIA: -- (indiscernible).

21 So --

22 CHAIR FOLEY: Councilwoman --

23 COUNCILWOMAN PLASCENCIA: Uh-huh.

24 CHAIR FOLEY: -- Mr. Hunter wants to do a
25 point of order.

1 Eva, Mr. Hunter says that she has ten more
2 minutes left because she started at 6:46.

3 MS. ARSEO: I had his time -- I had his time
4 note -- her time started at 6:38.

5 CHAIR FOLEY: Okay, all right.

6 COUNCILWOMAN PLASCENCIA: So you want me to be
7 quiet now? Sorry, I'm sorry confused.

8 CHAIR FOLEY: No, you don't have to be quiet.
9 Please continue.

10 COUNCILWOMAN PLASCENCIA: Now I lost my train
11 of thought.

12 CHAIR FOLEY: Sorry.

13 COUNCILWOMAN PLASCENCIA: That's okay. Well,
14 I -- I --

15 CHAIR FOLEY: You were saying there was
16 urgency.

17 COUNCILWOMAN PLASCENCIA: Yeah, right. And so
18 again, it's subjective, right? You know, Jason has his
19 ideas of what urgent is. You know, we were just eager
20 to get out there and -- and do the work and meet the
21 residents. You know, that was it. So thank you for
22 the opportunity to explain.

23 And thank you, Al, for clarifying what you
24 remember, because it's -- it feels like it's going to
25 be a year ago now.

1 So thank you for listening.

2 CHAIR FOLEY: Thank you.

3 Okay. I have a couple of questions. Mr. --

4 MR. ZELINKA: Zelinka.

5 CHAIR FOLEY: Yes. But I -- I was just trying
6 to read something else.

7 So there's a question about whether or not
8 you have more time.

9 So what some people are saying, Eva, is that
10 her opening statement started at 6:38, but that her
11 case in chief didn't start until later.

12 MS. ARSEO: Oh, I understood that she was
13 presenting her case and she was calling on her
14 witnesses. I didn't see that it was just her opening
15 statement. I will --

16 CHAIR FOLEY: Well, do you have any -- do you
17 have anything else that you would like to -- well,
18 actually we did separate them. When she -- she said
19 she was done with her opening statement, they -- we
20 then (indiscernible).

21 Do you have anything else you wanted to
22 present? Are you finished, councilwoman?

23 COUNCILWOMAN PLASCENCIA: I'm finished.

24 CHAIR FOLEY: All right.

25 COUNCILWOMAN PLASCENCIA: Thank you.

1 CHAIR FOLEY: All right. So --

2 COUNCILWOMAN PLASCENCIA: Sorry for the
3 confusion.

4 CHAIR FOLEY: So now --

5 MEMBER HUERTA: After -- after your questions,
6 Chairman Freya Foley, Dave would like to speak.

7 CHAIR FOLEY: Okay. Before or after my
8 question? I don't know when.

9 Dave, go ahead, and then I'll ask my
10 question.

11 MEMBER STAHOVICH: Okay. Yeah, yeah, I was
12 going to agree with Jessica, because typically after
13 the, you know, closing statement -- statement, you
14 know, there's a break, so okay, now go ahead and do
15 your case. And I didn't -- you know, I had a -- had a
16 hard time following it. I understand everything that
17 was said, and I appreciate it; but as far as the time
18 goes, yeah, we probably need to make sure we separate
19 the issues from opening statements to case in chief
20 rather than just blur it all together.

21 And I -- I -- and I don't think it hurt at
22 all, but that was a little bit confusing.

23 CHAIR FOLEY: I thought she was pretty clear
24 when she said she was -- she was done with her opening
25 statement. She stated when she was finished. I don't

1 know. Anyway, so it's all over with.

2 So, Mr. Zelinka, so I did have a couple of
3 questions. So if I'm understanding, and correct me if
4 I'm wrong, if I'm understanding what you said --

5 MR. ZELINKA: Uh-huh.

6 CHAIR FOLEY: -- you actually advised her to
7 use the excuse in Sunshine part of the ordinance?

8 MR. ZELINKA: So when the issue was surfaced
9 by the councilwoman of a concern that the item was not
10 on the published agenda for the 17th, I -- I -- to the
11 best of my ability, probably the -- the -- my advice
12 would have been, the only way to get it there would be
13 potentially through the Sunshine Ordinance or something
14 like that. I can't -- I can't give you specifics. I
15 wish I had notes that could -- that could be specific
16 about it, but and -- and if the councilwoman recollects
17 it differently, that -- that's fine. I -- I -- but it
18 would have been based on what seemed to be commonly
19 understood, that if two councilmembers deemed an issue
20 urgent, which is time bound, that those two
21 councilmembers can bring an item forward.

22 And so that was my understanding, rightly or
23 wrongly.

24 CHAIR FOLEY: Okay, all right.

25 And, Councilwoman Plascencia, I think did you

1 say that this whole issue is under discussion now and
2 that there's a discussion of changing the language of
3 the ordinance? Did you say that?

4 COUNCILWOMAN PLASCENCIA: So we're discussing
5 the urgent -- the urgent piece. Did you want me to
6 talk?

7 CHAIR FOLEY: No -- yeah, go ahead.

8 COUNCILWOMAN PLASCENCIA: Oh, okay. Yeah, so
9 as I mentioned, the Sunshine Ordinance, we have a new
10 one now where we have to have a third signee, because
11 as Colleen had mentioned, it is -- we don't want to say
12 we used it often, but it happens, it's common. And so
13 because the -- the public had raised concern about what
14 is urgency, and that's not -- I think Jason spoke to
15 the loophole or something where it's not really
16 outlined in the ordinance, and so -- so yeah, some --
17 some of my colleagues have been having conversations
18 about, and I think that was a conversation on the dais
19 when we voted to add the third signee, about defining
20 that so that we have a better consensus.

21 And I know Colleen talked about COVID. And
22 obviously, I don't think people will argue that those
23 were some very urgent times. But nonetheless, there
24 are some issues that have timelines, especially when
25 we're talking about, let's say, affordable housing and

1 we have to get certain things in to get state approval,
2 right? So there's some -- some reasons why sometimes
3 we have to meet the Sunshine Ordinance requirements
4 with -- with the signatures.

5 So yes, we understand that -- how the
6 perception is, and so we are trying to -- to remedy
7 that.

8 CHAIR FOLEY: Okay. Gloria.

9 COUNCILWOMAN PLASCENCIA: Let me plug in my --

10 MEMBER HUERTA: Thank you. I have a series
11 of questions, but, Madam Chair, I want to let you know
12 that Taylor would -- has questions after mine and then
13 Dave.

14 CHAIR FOLEY: Yes, I see that.

15 MEMBER HUERTA: So my first question is either
16 for Mr. Zelinka or Ms. Nicol. I understand that the
17 definition of urgent was not defined clearly or at all;
18 however, I think many of us have our own preconceived
19 or predetermined notion of what is urgent and what is
20 not, but I would like either or both of you to respond
21 to what types of items have been brought forward as
22 urgent items in the past. That's my first question.

23 CHAIR FOLEY: Maybe, Mr. Zelinka, do you want
24 to start with that?

25 MR. ZELINKA: I would need to give that some

1 time. I know that off the top of my mind, there was a
2 fairly -- I think there was a fairly recent -- I think
3 there was a fairly recent item that gave rise to this
4 current discussion about urgency. I -- I believe it
5 was brought, maybe Colleen can -- or can -- it was, I
6 believe, maybe Councilmember Fierro led an item during
7 this COVID period that gave rise to a questioning about
8 the urgency item.

9 Do you -- do you recall, Colleen -- Colleen?
10 Or am I mistaking that for something else?

11 MS. NICOL: Yeah.

12 MEMBER HUERTA: Begin.

13 MS. NICOL: I don't particularly recall that,
14 but during this COVID time, there were other policies
15 about restaurant seating and all that and not many --
16 several of those were -- were late breaking and
17 occurred. And in the past there have been items where
18 there was legislation where the council needed to take
19 a position, and so that was after the agenda was
20 published, and so they'd add something on.

21 But it is not uncommon for councilmembers,
22 who have a matter that they wish it to be heard
23 quickly, to do -- use -- use the exception. They felt
24 personally that it was an item of urgency and because
25 it -- with the Sunshine, it's -- it's two weeks. So if

1 it's an answer they wanted before that, and as the code
2 read the time, if a councilmember believes an item is
3 urgent. So it was the judgment of the person proposing
4 the item and that councilmember. So urgent was only
5 under the standard of whoever the proposer was.

6 MR. ZELINKA: Yeah. And urgent, as my
7 understanding is -- is a -- is a description of time.
8 And in -- there's importance and there's urgent --
9 urgency. And urgency is about time. And I do recall
10 -- and -- and I do recall the conversation -- I do
11 recall having a conversation about, well, when is the
12 next -- when -- when it was first brought to my
13 attention by the councilwoman that it was not on the
14 agenda for the 17th, I do recall vaguely a conversation
15 with my team saying, when is the next council meeting,
16 and I believe the next council meeting was an entire
17 month after that -- that agenda was published, which
18 would have been like January, somewhere in the first
19 week of January.

20 And -- and I -- I recall consistently, not
21 just Councilwoman Plascencia, but all of the
22 councilmembers-elect, being very interested in getting
23 their business cards as soon -- as soon as possible.
24 So there was a sense of urgency because they're now
25 councilmembers, and they want to be handing out their

1 card in the public. So I recall that.

2 But -- but the level of importance, that's
3 defined by the council, not by me or Colleen. It's by
4 the council.

5 MS. NICOL: And I can just confirm what --
6 what Al said. Because the meetings of -- of the -- of
7 Christmas and New Year's are -- are every year, they
8 get cancelled by the council, so December 17th was
9 probably the last, as Al says, it was the last meeting
10 of the council before -- into the new year. So the
11 delay would have been more than one week or two weeks,
12 it would have been more than that.

13 MEMBER HUERTA: Thank you.

14 COUNCILWOMAN PLASCENCIA: Madam Chair, can I
15 add something? Can I add --

16 CHAIR FOLEY: Go ahead.

17 COUNCILWOMAN PLASCENCIA: Can I add something?

18 CHAIR FOLEY: Are you -- did you say can you
19 add something or ask?

20 COUNCILWOMAN PLASCENCIA: Just add --

21 CHAIR FOLEY: Oh.

22 COUNCILWOMAN PLASCENCIA: -- about what they
23 were --

24 CHAIR FOLEY: Yes.

25 COUNCILWOMAN PLASCENCIA: -- mentioning.

1 CHAIR FOLEY: Yes, go ahead.

2 COUNCILWOMAN PLASCENCIA: Thank you.

3 CHAIR FOLEY: Well, what do you think, Gloria?

4 COUNCILWOMAN PLASCENCIA: And -- and now, we
5 voted to have weekly meetings so that this kind of
6 issue, again, won't -- it won't be an issue. We're --
7 we're addressing the ordinance, and we've gone to
8 weekly meetings. And at that time, they were twice a
9 month. And then obviously with the holidays, it pushed
10 things further. But our hope was that --

11 MR. HUNTER: I'm going to object to this.

12 COUNCILWOMAN PLASCENCIA: -- we --

13 MR. HUNTER: This is additional testimony.
14 This could have been provided during the presentation
15 -- presentation of evidence, okay? This is additional
16 testimony. This is supposed to be questions from the
17 -- from the panel. Can I just interject when I want
18 to?

19 COUNCILWOMAN PLASCENCIA: Thank you, Madam
20 Chair.

21 CHAIR FOLEY: Well, okay. I -- I -- I think
22 the best thing to say would be to tell me you object,
23 and then let me call on you and find out what your
24 objection is. How is that?

25 MR. HUNTER: Okay, that's fine.

1 CHAIR FOLEY: He's -- I -- I don't know. I
2 think he's correct on that.

3 But, Gloria, do you have more questions?

4 MEMBER HUERTA: Oh, yes, I have quite a few
5 more.

6 CHAIR FOLEY: Okay. Go ahead, Gloria.

7 MEMBER HUERTA: Second question is to
8 Councilwoman Plascencia. And it might be -- allow her
9 to reiterate some of the things she just told us, but
10 in your mind, what defined the need to order business
11 cards or to have an item to alter what is on business
12 cards as urgent? Define for me or tell me why you
13 thought that was an urgent matter that needed to go
14 before the City Council.

15 COUNCILWOMAN PLASCENCIA: When -- the urgency
16 was to be responsive to the community. When there's a
17 transition, it seems like it's -- it's quick, but it's
18 not. You know, as Al said, we had so much onboarding
19 to do. So the urgency was, how do we get ahold of our
20 representatives. And the best way to do that is with
21 the -- with the council card, business card.

22 And so that was my frame of mind. How
23 quickly can we get out there, how quickly will they be
24 printed, all that. Because as you know, in the city,
25 things take time, so it wasn't going to happen

1 overnight. So my urgency was just to be out and be
2 responsive so that people knew how to get ahold of our
3 office.

4 MEMBER HUERTA: My third question is kind of a
5 followup for what you just entered, so I appreciate
6 your comments. And this is really probably to
7 Mr. Zelinka.

8 Just, can you just confirm that when our
9 councilpeople-elect are not formally sworn in, the city
10 cannot purchase things on their behalf like business
11 cards or other items because they are not officially
12 city employees or city elected officials; is that
13 correct?

14 MR. ZELINKA: That's absolutely correct. And
15 we -- we had councilmembers-elect that wanted to, you
16 know, that inquired, I shouldn't say that wanted, they
17 inquired if they could have their emails activated
18 before they were sworn in; and we -- we -- that -- that
19 was not allowed, because they were not elected
20 officials. They were not -- they were not
21 councilmembers of the city.

22 MEMBER HUERTA: And this might be directed to
23 you, too, and you -- I don't know if you can answer the
24 question or not, was there an additional cost to
25 printing because these business cards had to be --

1 there was a new -- new -- what do you call it, a new
2 template that had to be developed, and the use of the
3 union logo, did that increase the cost of bill -- of --
4 of the -- the business cards?

5 And my concern is, because the city is
6 already dealing with a lot of fiscal issues. And I
7 know when we talk about \$100 or \$200, it's very small
8 in regards to the PERS retirement fund and the cost of
9 COVID, the loss of revenue. But was there an increased
10 cost to having a change to the template and having
11 these business cards printed with a union bug on it?

12 MR. ZELINKA: So I can't answer that
13 specifically. Maybe is Jen McCoy on from purchasing?
14 But what I can tell you is the vendor that we have the
15 city, it's -- I believe it's Hanigan or Harrigan, they
16 have a -- I -- I -- I -- as I understand, they have --
17 they have -- they're base -- they have a print shop in
18 Riverside. And as I understand, they -- they have a
19 print -- they might have multiple print shops, and one
20 of -- their union print shop is San Diego. I can't
21 tell you if it costs more or not.

22 Maybe Jen -- Jen McCoy, or whoever is here
23 from purchasing can, but I can't tell you. I'd be
24 happy to get that information for you, but I can't tell
25 you. I'm sorry about that.

1 CHAIR FOLEY: I think Jen McCoy might -- she's
2 right here.

3 Gloria, do you want her to answer your
4 question?

5 MEMBER HUERTA: I believe that -- that she was
6 asked as a witness for Mr. Hunter, so that she could
7 provide us with that. Is that correct?

8 CHAIR FOLEY: Yeah.

9 MS. MCCOY: Yes.

10 CHAIR FOLEY: I forgot you were there. So I
11 apologize.

12 MS. MCCOY: No, no problem. So at this point,
13 there have been no business cards ordered with the
14 union bug. We looked through our keycard reports, our
15 accounts payable, reimbursements, and our Hanigan
16 purchase order that we order our business cards from.
17 So there's no evidence of what it would cost, what the
18 difference would be at this point.

19 MEMBER HUERTA: So no, there haven't -- we see
20 a copy of a business card in our packet that has
21 Councilwoman Plascencia's name on it and the union bug,
22 but that was not paid for or purchased through the
23 City, to your --

24 MS. MCCOY: Not that --

25 MEMBER HUERTA: -- knowledge?

1 MS. MCCOY: Not that my records found.
2 Everything that I presented did not have anything on
3 there from the union bug. So I'm not sure how that was
4 paid for.

5 MR. ZELINKA: And we can -- we can ask
6 Hanigan, right? I mean, we can look out -- look -- we
7 can ask them to provide whatever records they have.

8 MEMBER HUERTA: I -- I don't know if that's
9 necessary, and I'll defer to the Chair. I think that
10 we would like to make a decision today, so I -- I
11 appreciate the information. It's interesting that we
12 are a year out from, almost a year out from the events
13 that occurred on -- in December of last year, no
14 business cards have been ordered with the union bug.
15 So we don't even know -- why -- what was the urgency.
16 If -- if they haven't been ordered, they haven't been
17 procured, why all of a -- and I'm just pontificating.

18 I will stop and defer my time to -- to
19 Taylor.

20 CHAIR FOLEY: Taylor.

21 MR. ZELINKA: Okay. If I may, Madam Chair, is
22 I --

23 CHAIR FOLEY: Uh-huh.

24 MR. ZELINKA: The councilmembers have their
25 business cards. So they were ordered, correct? I

1 mean, people have them, I think. I mean, as far as I'm
2 aware, I see them around City Hall. I don't know if
3 it's a matter of recordkeeping, you know, slow
4 bookkeeping, invoicing, I -- I don't know; but I'd be
5 happy to --

6 CHAIR FOLEY: Yeah, we need answers tonight.
7 So --

8 MR. ZELINKA: Yeah.

9 CHAIR FOLEY: -- but --

10 MS. MCCOY: I --

11 CHAIR FOLEY: -- i think --

12 MS. MCCOY: May I say that whenever I did
13 receive the questions from Mr. Hunter, I provided all
14 of the documentation from Hanigan. He provided -- they
15 provided samples of all the business cards that have
16 been ordered by a councilmember or the mayor from
17 December 17th until today or until the day I provided
18 the report. And we searched our accounts payable
19 records, our keycard transactions, and any personal
20 reimbursement records.

21 So if there is something out there, that was
22 paid for in another manner, you're right, it could be a
23 delayed invoice, but we also asked for the invoices.
24 So I'm not sure where that came from.

25 MR. ZELINKA: There -- there is one, and maybe

1 Councilwoman Plascencia has perspective on this, I'm
2 just looking at notes, so I -- I see that on -- on
3 January 16th, so we -- we had two executive assistants
4 in our city manager's office. One was Shanae Smith,
5 and Shanae is no longer with us, and the other is
6 Jennifer Anderson. And it says on -- there was -- it
7 took a lot of delays to get things done.

8 And it said on January 16th, 2020,
9 Ms. Anderson, I'm reading what Shanae shared with me,
10 emailed Councilwoman Plascencia, Ms. Ruiz, and -- and
11 myself, with a status update regarding the order.
12 Ms. Anderson indicated that the order would be
13 processed. However, due to the order being sent to the
14 Hanigan company's third-party union printing company,
15 which was located in the city of San Diego, the
16 delivery time may be a bit delayed.

17 Councilwoman Plascencia directed or asked --
18 or directed Ms. Anderson to forward the file to her and
19 that she would have her own printing company complete
20 the order. So I don't know if that occurred or not,
21 but that -- that's what Shanae shared with me.

22 CHAIR FOLEY: Excuse me. Dave, you had a
23 point of order.

24 MEMBER STAHOVICH: Yeah. I'm just wondering
25 if we're taking additional testimony on new issues or

1 if we're just asking questions right now and looking
2 for --

3 CHAIR FOLEY: Well --

4 MEMBER STAHOVICH: -- specific answers.

5 CHAIR FOLEY: Well, I think that when we say
6 that the panel can ask questions, the panel can ask
7 questions about any part. It doesn't have to be
8 strictly based on testimony. It has to be based upon
9 what they know.

10 MEMBER STAHOVICH: I understand that. My
11 point is that I believe the question was something
12 different, and then we started talking about somebody
13 named Shanae. And that's what I was wondering about.

14 CHAIR FOLEY: Oh, okay. Let me just -- just a
15 moment.

16 Councilwoman Plascencia, I have to ask
17 Gloria --

18 Gloria, are -- do you have more questions?

19 MEMBER HUERTA: No. I yield my time. I'm
20 done.

21 CHAIR FOLEY: Okay. Councilwoman Plascencia,
22 you wanted to speak.

23 And then, Taylor, I know you're next. You've
24 been waiting patiently.

25 MEMBER KEEN: I'm good.

1 COUNCILWOMAN PLASCENCIA: Thank you, Taylor,
2 for letting me go. It's just I found the box in my
3 desk, and it says Hanigan on it, so I don't know why
4 there's no --

5 MR. ZELINKA: Yeah.

6 COUNCILWOMAN PLASCENCIA: -- receipt or
7 anything like that, but my council cards are in here,
8 and this is the -- it has the Hanigan company
9 information on it. So --

10 CHAIR FOLEY: Okay.

11 COUNCILWOMAN PLASCENCIA: -- they were
12 printed. I don't know why there's no receipt or
13 anything, but --

14 CHAIR FOLEY: Do they have the --

15 COUNCILWOMAN PLASCENCIA: -- they're --
16 they're --

17 CHAIR FOLEY: -- union bug on --

18 COUNCILWOMAN PLASCENCIA: -- here. So --

19 CHAIR FOLEY: -- them? Were they --

20 COUNCILWOMAN PLASCENCIA: I can't hear you.

21 CHAIR FOLEY: Were they printed with the union
22 bug?

23 COUNCILWOMAN PLASCENCIA: Yeah. These are the
24 ones that Al -- Al mentioned that are in City Hall that
25 the Hanigan -- the same ones that are in your packet.

1 CHAIR FOLEY: Uh-huh.

2 MEMBER HUERTA: Okay.

3 COUNCILWOMAN PLASCENCIA: Yeah. And so they
4 were still in the box, I mean, some of them --

5 CHAIR FOLEY: Okay.

6 COUNCILWOMAN PLASCENCIA: -- in my office.

7 CHAIR FOLEY: Okay. Thank you.

8 Taylor.

9 MEMBER KEEN: Thank you.

10 I -- my questions kind of got turned around
11 based on the last section of talking, so I'm going --

12 CHAIR FOLEY: Okay.

13 MEMBER KEEN: -- to kind of rearrange what I
14 was going to ask. So I don't know who to direct this
15 to, but when cards are ordered, how long do they
16 typically take to receive? Are we talking about a
17 week? Are we talking about months? Do --

18 I mean, Colleen, would you know the answer to
19 that?

20 MR. ZELINKA: Jen, Jen.

21 MS. MCCOY: That would be more of a purchasing
22 question. Honestly, the departments order their own
23 business cards directly through the vendor. So
24 purchasing doesn't really have an estimate of what the
25 time it takes. I have obtained quotes from the Hanigan

1 company where they will turn it around as quickly as
2 requested. So sometimes you can pay a little bit extra
3 if you expedite the request. But I have no real
4 estimate because I'm never involved in the ordering
5 piece.

6 MEMBER KEEN: Okay. Thank you.

7 MS. MCCOY: You're welcome.

8 MEMBER KEEN: I guess my next question on that
9 then is more into budget.

10 Ms. Plascencia, you talked a little bit about
11 you have a limited budget to work with. And it sounds
12 like the business cards fall into that along with
13 everything else stationery; is that correct?

14 COUNCILWOMAN PLASCENCIA: Yes.

15 MEMBER KEEN: Okay. So it -- would it have
16 been possible to order business cards without the bug,
17 and then once this item could have gone onto the agenda
18 without the urgency on the Sunshine Ordinance, could
19 you -- and it was voted on by the council, could you
20 have then had new business cards ordered with the bug
21 if the council voted on it at that point? Is the
22 budget agreeable to that?

23 COUNCILWOMAN PLASCENCIA: Well, the -- I would
24 assume -- my rationale is, I wouldn't want to order
25 more than I need, right? So then I'd be doubling and

1 spending the money that we have. And -- and the first
2 -- the city manager's office wanted to pay for the --
3 the business cards for the new council. So -- so my
4 assistant, you know, again she was new, we were all
5 onboarding, but we weren't -- we weren't going to order
6 them ourselves. We were going through the city
7 manager's office.

8 And so I would -- I would say no because I
9 didn't want to waste more money and then use other
10 business cards. So that's why we were trying to go
11 through the process.

12 MEMBER KEEN: Okay. I do have another
13 question. So in regards to, I just want some
14 clarification, the City Council memorandum, I believe
15 it's page 7, in listening to Al Zelinka speak on that,
16 it sounds like he drafted that initially after you guys
17 had a conversation about it, and then you signed it; is
18 that how I understood that?

19 COUNCILWOMAN PLASCENCIA: What I said at the
20 council meeting or the report that was submitted on the
21 agenda?

22 MEMBER KEEN: The -- on page 7 there's the
23 City Council memorandum that you signed. And it
24 sounded like, from Al Zelinka, that he prepared --
25 helped you prepare that or prepared it for you to sign

1 and that prior to this being prepared, the union bug
2 was discussed; but it was not included by anybody in
3 this document. Am I understanding that correctly?

4 COUNCILWOMAN PLASCENCIA: I don't know. I
5 don't think that's what Al said, but I don't want to
6 speak for him. I -- I think he said someone, and I
7 don't know if it was the clerk's office or his staff,
8 that worked on it. And typically, they'll just email
9 it to us and say if we think it's okay. Again, it was
10 my first, you know --

11 MR. ZELINKA: Okay.

12 COUNCILWOMAN PLASCENCIA: -- report. I didn't
13 -- I didn't think there was anything wrong with it, so
14 I said okay, but I don't know who actually drafted it.

15 MEMBER KEEN: Okay. I'm -- I'm only asking
16 because it had sounded like Al had said that the union
17 bug should be included in this document, but that it
18 wasn't added prior to the signatures.

19 COUNCILWOMAN PLASCENCIA: Oh. I --

20 MR. ZELINKA: Yeah, I don't think I -- I --
21 you -- so forgive me, that you -- you believe I said
22 that the union bug topic should be in the staff report?

23 MEMBER KEEN: No. Page 7 of the packet has a
24 City Council memorandum.

25 MR. ZELINKA: Yeah.

1 MEMBER KEEN: And what you had said was you
2 knew she wanted a union bug, and you had --

3 MR. ZELINKA: Yeah.

4 MEMBER KEEN: -- recommended it be added to
5 the memorandum. That's what I took down as a note when
6 you were talking.

7 MR. ZELINKA: No. So when I -- when I
8 inquired -- when I inquired about -- well, the -- or
9 the council -- the councilwoman conveyed the interest
10 in having the union bug insignia on her card.

11 MEMBER KEEN: Uh-huh.

12 MR. ZELINKA: And when I inquired from the
13 city attorney about the -- the morning of December 3rd,
14 knowing this was coming forward, and the -- the city
15 attorney conveyed that -- that the generally accepted
16 logos are union, recycle, affirmative action, equal
17 opportunity employer, and the like. When I gave the
18 direction to Lea, two days after council, as well as my
19 city management team, I put together a list of what I
20 believed were the key points to include and address in
21 a policy discussion of the full City Council.

22 Because at that point, what I understood, and
23 correct -- and, you know, I could have been mistaken,
24 but what I understood was what was requested was for
25 the city staff to bring a policy discussion --

1 MEMBER KEEN: Okay.

2 MR. ZELINKA: -- about key points. And the
3 labor bug logo was one of them. Input from the city
4 attorney where the business cards are city -- official
5 city business and what should or shouldn't be allowed
6 on them and also a whole bunch of other questions, does
7 it reenforce or conflict with the charter, does it
8 raise First Amendment issues, does it have budget
9 implications, does it represent the council as a body,
10 a whole bunch of questions that I was anticipating my
11 staff doing the policy research on, because we thought
12 we'd be bringing it back at a later meeting, maybe
13 January or -- or February.

14 And just because that's how I interpreted --

15 MEMBER KEEN: Okay.

16 MR. ZELINKA: -- that (indiscernible) at the
17 end of the City Council (indiscernible) on the 3rd.
18 When it wasn't on there, then I understood -- then when
19 the councilwoman brought it to my attention that --
20 that when the agenda was published, that it was a
21 matter of urgency, that it wasn't going to be a long,
22 you know, long -- we weren't going to have a lot of
23 time to prepare this policy discussion, then Brandi and
24 Lea did the best they could with the time that they had
25 to draft a framing staff report to provide to the

1 councilwoman so she could build upon it or delete from
2 it.

3 So I don't know if that --

4 MEMBER KEEN: Okay.

5 MR. ZELINKA: -- answers your question, but
6 okay.

7 MEMBER KEEN: No. That does help. I -- okay.
8 I just wanted -- because it -- it -- what I'm hearing
9 is that conversations were had that included the union
10 bug, but at no point was this specific item of the
11 labor union bug added to anything. It still just
12 talked about branding. And I reviewed the branding
13 manual, and that's not mentioned in that.

14 MR. ZELINKA: Correct.

15 MEMBER KEEN: Okay. Thank you.

16 MR. ZELINKA: Yeah.

17 MEMBER KEEN: That was -- and the rest of my
18 questions were, I think, covered under Gloria's
19 questions.

20 MR. ZELINKA: Okay.

21 CHAIR FOLEY: Okay, okay. Dave.

22 MEMBER STAHOVICH: Okay. And I think
23 Mr. Zelinka just kind of answered a lot of my
24 questions. I recall his testimony that he put together
25 a shell of a report thinking that this was going to be

1 for a future agenda item, and he just reiterated he
2 thought it would be January, February.

3 And I -- I'll ask you a similar question,
4 too, that -- that I asked the clerk. Is it your
5 standard practice that when one, or in this case two
6 councilmembers, come to you and direct you to do
7 something that you tell them no?

8 MR. ZELINKA: Well, it depends what it is. To
9 be perfectly honest, it depends what it is. So in this
10 case, it -- it -- it was, this is a matter of urgency
11 to us. And rule number one is follow the code.

12 MEMBER STAHOVICH: Yeah.

13 MR. ZELINKA: And the code is the ordinance
14 and the law. And so we look the at law. And the
15 ordinance, as has been interpreted since I -- I --
16 since the Sunshine Ordinance was adopted, was that
17 urgency is a matter of perspective, and that
18 perspective is the held by the council.

19 MEMBER STAHOVICH: Okay. Let me -- the -- I
20 guess then what I'm confused with is, if it was an
21 urgent item, why did you not get a report together
22 quicker? Why did you not have something ready --

23 MR. ZELINKA: Uh-huh.

24 MEMBER STAHOVICH: -- on time? I mean, I
25 understand the way it works.

1 MR. ZELINKA: Uh-huh.

2 MEMBER STAHOVICH: And it is a -- is a matter
3 of perspective as what is urgent. And I know as staff,
4 I mean, I've been on that side of it. I know we do
5 what we're told. Find a way to make it work. I
6 understand that. But the other question I have is the
7 follow-up question I have is I'm even looking at the
8 recommended motion, and again, it kind of looks at,
9 we'll have a discussion on some guidelines.

10 And so my concern, my questions are really
11 like, I'm not -- it -- it doesn't sound like anybody
12 really anticipated what might happen that day until it
13 did. Is -- is -- is that a fair statement?

14 MR. ZELINKA: Let's see, I want to try to
15 unpack this. So on the -- the -- the -- my
16 understanding going into the meeting of the 3rd is that
17 there was an interest, based on the feedback -- well,
18 based on the councilmember-elect's interest in having
19 the union logo bug on her -- the business card and
20 based on the feedback that I had gotten from the city
21 attorney's office, that there was a need to have a
22 policy discussion about what can be put on the -- on --
23 on a city -- official piece of City Council business.

24 Because the feedback I got from the city
25 attorney was recycled, affirmative action, union bug,

1 these various items are common. And what I was
2 concerned about was, what else can go on there. If --
3 if a -- because there's First Amendment issues from my
4 standpoint. Because if one person can have a logo on
5 there, what is -- what is stopping another person from
6 having a different logo on there. Maybe the antithesis
7 of the union bug, right? It -- you could have dueling
8 logos.

9 And I was concerned about that. And so the
10 -- just in general. So this policy discussion that we
11 were geared up for was something that was going to
12 take, we figured, until like January or February. I
13 have notes where I say, I -- I'm looking at January or
14 February for this. I didn't have the appreciation that
15 it was an urgent matter until the city clerk's office,
16 the city, published that agenda and the councilwoman
17 came to me and said, why isn't this, you know, this on
18 here.

19 And I think it was because, as the
20 councilwoman said, looking at over a month away before
21 the next City Council meeting and as she stated, she
22 wanted to be able to go out into her community and hand
23 out business cards, and the union bug logo was -- is
24 important to her. So -- so the only path forward that
25 I could understand is -- is the Sunshine Ordinance, if

1 -- if -- of any.

2 Because in the past, if it's -- up until that
3 time, if there was an urgent matter to two or more
4 councilmembers, that urgent matter could be served up
5 on the agenda. And so we did the best we could to put
6 together, you know, and -- and basically, because you
7 recall, I -- I -- I -- I said on December 5th, I sent
8 an email to my team.

9 Obviously, I didn't think it was urgent. If
10 I thought it was urgent, I would have done it the next
11 morning, December 4th after that meeting. I took my
12 time because I didn't know it was urgent.

13 MEMBER STAHOVICH: No, Mr. Zelinka, I
14 appreciate your answer. And I don't mean to put you
15 under the gun.

16 MR. ZELINKA: No. It's --

17 MEMBER STAHOVICH: I'm just trying to --

18 MR. ZELINKA: No.

19 MEMBER STAHOVICH: -- understand a little bit.

20 MR. ZELINKA: No.

21 MEMBER STAHOVICH: So thank you very much.

22 MR. ZELINKA: You can.

23 CHAIR FOLEY: Okay.

24 MR. ZELINKA: I'm not under the gun. I just
25 want to be honest.

1 CHAIR FOLEY: Okay.

2 MEMBER STAHOVICH: Okay. Thank you very much.

3 CHAIR FOLEY: All right. I believe that --
4 well, let's -- Taylor, can you wait until we clarify
5 Gloria's question, and then we'll go -- I'll come to
6 you, Taylor?

7 So, Gloria, ask your question, please.

8 MEMBER HUERTA: I -- I just think it's a
9 point-of-order question. Is -- I -- I understand that
10 as we ask either the complainant or the respondent
11 additional questions, it's appropriate for them to
12 respond; but should they be testifying additionally in
13 between conversations or in between questions being
14 answered by other individuals?

15 CHAIR FOLEY: I think it's very -- I -- I
16 don't -- it -- I think -- I think it's -- it is
17 testimony. I think it's very difficult, because I
18 think that -- sometimes I think we're asking questions,
19 and we're not necessarily asking the right person the
20 question, which is part of it; but I think, as Brandon
21 said, it all goes on record. But I agree with you, we
22 have to be a little bit more precise maybe with just
23 answering the questions that were asked.

24 MR. MERCER: I --

25 CHAIR FOLEY: Do you have anymore comment,

1 Dave? Gloria?

2 MEMBER HUERTA: No. I believe Taylor had a
3 question.

4 CHAIR FOLEY: Okay.

5 MR. MERCER: This is Brandon from the city
6 attorney's office. Can I be briefly heard on this?

7 CHAIR FOLEY: Yeah.

8 MR. MERCER: I -- any time you're asking
9 anybody a question, as a panel, whether it's
10 Mr. Hunter or Councilwoman Plascencia or -- or
11 Mr. Zelinka, whatever their response is going to be is
12 going to be testimonial in nature. So -- so I think
13 what -- what we really need to do is -- is be more
14 careful about when we're asking questions, that it's
15 directed to the appropriate person --

16 CHAIR FOLEY: Uh-huh.

17 MR. MERCER: -- and that there aren't three
18 people trying to answer one -- one question, just to
19 make the record very, very clear. And these side
20 chats, I'm -- I'm not sure how they get captured in the
21 record or if they get captured at all, so I -- I want
22 to just caution everybody to be a little hesitant to --
23 to having discussions in the side chats. If you need
24 to speak, just -- just write speak so we can have just
25 a nice clear record moving forward.

1 CHAIR FOLEY: Okay.

2 MR. MERCER: And that's -- that's more of a
3 recommendation, maybe not a legal opinion.

4 CHAIR FOLEY: I think we're supposed to be
5 saving the side chats. That's my understanding.

6 MR. MERCER: Right.

7 CHAIR FOLEY: The chats are supposed to be
8 saved. So I presume that whomever is from the city
9 clerk's office is saving that as part of the record,
10 the side chats.

11 Am I wrong, Colleen, or --

12 MS. NICOL: The -- the -- the side chats are
13 not generally kept as part of the record, but in this
14 case, we're going to have to print them and save them
15 because you are having substantive discussions. But
16 the -- the -- the -- the problem is that the public
17 cannot see the side chats.

18 CHAIR FOLEY: Oh.

19 MS. NICOL: So I agree with Brandon. I'd
20 please ask you to just only put the words speak in
21 there. Do not ask questions in there or make
22 commentary in there. Only -- only type the word speak
23 so that you can --

24 CHAIR FOLEY: Okay.

25 MS. NICOL: -- be called upon to ask your

1 question so everyone can hear.

2 CHAIR FOLEY: Okay. Let me see.

3 Dave, I think Taylor was before you.

4 MEMBER HUERTA: Freya, can I just finish
5 really quick? One -- one --

6 CHAIR FOLEY: Okay.

7 MEMBER HUERTA: I really appreciated Brandon's
8 comments. And I just -- my only reason for bringing
9 that up is I think that some of the comments that are
10 important that maybe the complainant or the respondent
11 want to share are best under rebuttal so that we can
12 capture it and have the opportunity for everyone to
13 have a fair hearing.

14 CHAIR FOLEY: Yeah. We haven't done
15 cross-examination and rebuttal yet. That's coming up
16 as soon as we're done here.

17 Taylor.

18 MEMBER KEEN: This will be my last question.
19 And I'm going to direct it at Ms. Plascencia
20 specifically. And let me just preface it. So it
21 sounds -- what I'm hearing from all the testimony is
22 that the union bug was the primary focus of the item
23 that was being added urgently to the agenda. Is that
24 correct? Specifically adding the union bug?

25 COUNCILWOMAN PLASCENCIA: In order to print

1 the business cards.

2 MEMBER KEEN: Okay. So I -- I guess it just
3 goes to your point of mind at the time. Like, I
4 understand there was a lot of onboarding and all that,
5 and I can appreciate that, starting a new role is --
6 there's a lot, there's an exponential curve there for
7 things to do. But where I'm confused is that it
8 specifically was added as branding, although the
9 conversations that it sound like that were had with
10 staff and you and other city councilmembers were in
11 regards to the union bug and not just branding in
12 general.

13 So I'm just trying to understand why you
14 didn't add that specific word to the discussion for the
15 council meeting.

16 COUNCILWOMAN PLASCENCIA: The term that the
17 city attorney's office used was insignia, as Al
18 mentioned about that it would be as if we put the
19 recycle logo, those kinds of things. So it was -- you
20 know, I didn't think I needed to challenge staff as to
21 what was on there. I just trusted that what was
22 submitted sufficed, you know, all the -- you know, all
23 the requirements.

24 So it never occurred to me that I was missing
25 something or that, you know, I was intentionally trying

1 to leave something out. I just --

2 MEMBER KEEN: Okay.

3 COUNCILWOMAN PLASCENCIA: -- thought it was
4 complete, and I didn't think -- I didn't think it was
5 missing anything.

6 MEMBER KEEN: Okay.

7 CHAIR FOLEY: Okay.

8 MEMBER KEEN: Thank -- thank you.

9 CHAIR FOLEY: Dave.

10 MEMBER STAHOVICH: Actually, my questions have
11 all been asked and answered. Thank you.

12 CHAIR FOLEY: Okay. So if everybody -- has
13 everybody ask all of the questions that they wanted to
14 ask? I think we can move on.

15 So now it's time, Mr. Hunter, do you have any
16 cross-examination you would like to do of
17 Ms. Plascencia? It can only -- the cross-examination
18 can only pertain to her direct testimony.

19 MR. HUNTER: Yeah. I'd like to cross Al
20 Zelinka, please.

21 CHAIR FOLEY: Okay. Again, it can only
22 pertain to his -- not any questions -- but it was his
23 direct testimony.

24 MR. HUNTER: Yeah. If -- if we could --
25 Mr. Zelinka, do you have a copy of our record in front

1 of you so you can see page 8 of the record?

2 MR. ZELINKA: You know, I -- I have -- I have
3 the attachment links off of the -- the agenda, but I
4 don't have --

5 MR. HUNTER: Can we do this -- can we do this,
6 can we have IT pull up page number 8 of the official
7 record and share that on the screen for Mr. Zelinka to
8 see?

9 MR. ZELINKA: Uh-huh.

10 CHAIR FOLEY: Well, isn't it -- is it 7 and 8,
11 Mr. Hunter.

12 MR. HUNTER: It's -- it's --

13 CHAIR FOLEY: (Indiscernible).

14 MR. HUNTER: -- it's 7 and 8, but I really
15 want to concentrate on page 8.

16 CHAIR FOLEY: Okay.

17 MS. ARSEO: Madam Chair, this is Eva. I don't
18 know that --

19 CHAIR FOLEY: Okay.

20 MS. ARSEO: The media team does not have the
21 packet as --

22 MR. ZELINKA: If --

23 MS. ARSEO: -- as it is --

24 MR. ZELINKA: If --

25 MS. ARSEO: -- published.

1 MR. ZELINKA: If you tell me what that page
2 is, I might be able to just pull it up real quickly.

3 MR. HUNTER: It's the second -- it's the
4 second page, Mr. Zelinka, of the agenda report --

5 MR. ZELINKA: Yeah.

6 MR. HUNTER: -- that came forward on the 17th.

7 MR. ZELINKA: I have that agenda report.

8 MR. HUNTER: The first sentence should read,
9 discussion, the City Council will openly discuss. Do
10 you -- do you see --

11 MR. ZELINKA: Correct.

12 MR. HUNTER: -- that in front of you? Okay.

13 MR. ZELINKA: Yeah.

14 MR. HUNTER: So I'm going to read part of that
15 to you, and then I'm going to ask you a question. Is
16 -- is --

17 MR. ZELINKA: Please.

18 MR. HUNTER: Down -- down at the bottom it
19 says, fiscal impact, and it says approved as the form,
20 Gary Geuss, city attorney. Is it true that only --
21 usually on these reports, you'll also have who it was
22 prepared by, who it was proved by, and who it was
23 certified as to thoughts on most of these reports?

24 MR. ZELINKA: Yes.

25 MR. HUNTER: Okay. And so it's -- it's also

1 true that there's no one's name listed as prepared by
2 or approved by on this list?

3 MR. ZELINKA: Correct. However --

4 MR. HUNTER: Okay. The only --

5 MR. ZELINKA: The city --

6 MR. HUNTER: -- thing on this list -- hold on.
7 I'm going to -- I'm going to ask the questions.

8 MR. ZELINKA: Okay.

9 MR. HUNTER: The -- and so the -- the -- but
10 what it does say, however, is this -- this is also
11 true, is that it's submitted by Gaby Plascencia,
12 correct?

13 MR. ZELINKA: Correct.

14 MR. HUNTER: She -- you know, one reading this
15 report would, from the public, from the public's
16 perspective, would assume that this report was signed
17 off on, regardless of whether who may have helped her,
18 but it was approved by Councilwoman Plascencia,
19 correct?

20 MR. ZELINKA: Correct.

21 MR. HUNTER: Okay. Fair enough. These cards
22 were ordered when eventually, these -- these Hanigan
23 were eventually went to the printer when?

24 MR. ZELINKA: I -- I -- I don't know. It was
25 sometime after the 17th of December.

1 MR. HUNTER: Okay.

2 MR. ZELINKA: There were follow-up emails
3 related to that through January.

4 MR. HUNTER: And so the City has had urgent
5 meetings before, they're generally called special
6 meetings, correct, when there's something special that
7 needs to be discussed?

8 MR. ZELINKA: Sure. That's -- yeah.

9 MR. HUNTER: And so -- and so it was
10 absolutely within the power of the -- the -- the -- the
11 -- the City Council or even the Mayor to call a special
12 meeting for an urgent item whenever it wanted to,
13 correct?

14 MR. ZELINKA: If -- if the -- if that was
15 within the boundaries of what the conduct of the
16 council, whatever that ordinance number is, the Rules
17 of Conduct says that --

18 MR. HUNTER: Sure.

19 MR. ZELINKA: -- they can do.

20 MR. HUNTER: So -- so to -- to your memory,
21 did -- did Ms. Plascencia ask for a special meeting to
22 be held so that way she could get her business cards
23 before, you know, the holidays took place? Which --
24 which is generally the way you do it? Did she call for
25 that?

1 MR. ZELINKA: No. But I wouldn't --

2 MR. HUNTER: Okay.

3 MR. ZELINKA: -- have expected her to know
4 that either.

5 MR. HUNTER: What -- is -- is -- I guess I'm
6 good. I'm good there. Thank you, Al. That's good.
7 That's all I have.

8 CHAIR FOLEY: Okay.

9 MR. HUNTER: And now I have a question. I
10 have a question on cross for -- for Ms. Plascencia.

11 CHAIR FOLEY: Okay.

12 MR. HUNTER: Ms. Plascencia, how -- how did
13 you actually go about, to your best of your
14 recollection, ordering your cards?

15 COUNCILWOMAN PLASCENCIA: I didn't. My
16 assistant worked with the -- with the city manager's
17 secretary.

18 MR. HUNTER: Okay. And when -- and -- and
19 when did you actually order your cards? When was the
20 date that the cards were actually ordered?

21 COUNCILWOMAN PLASCENCIA: I don't know. I
22 don't do those -- I -- that's not something that I do.
23 That's something that --

24 MR. HUNTER: When did you -- when did you get
25 the cards?

1 COUNCILWOMAN PLASCENCIA: I don't remember.
2 The box that I found in my desk doesn't have the date.
3 I -- I can't remember. And I know you did a public
4 records request to get all those --

5 MR. HUNTER: Okay.

6 COUNCILWOMAN PLASCENCIA: -- files, so did you
7 find it in there?

8 MR. HUNTER: I'm -- I'm -- I'm the one
9 actually asking the questions. So the -- the -- the --
10 the next question I have is, so you could have gotten
11 these cards, it's conceivable you got them in January
12 or February or March?

13 CHAIR FOLEY: Okay. Mr. Hunter --

14 COUNCILWOMAN PLASCENCIA: I -- I don't --

15 CHAIR FOLEY: -- that's -- we have to keep the
16 questions focused on things that she actually testified
17 to.

18 MR. HUNTER: All right. Well, somebody
19 testified as to the process at some point in time. I
20 thought it was --

21 CHAIR FOLEY: That was not --

22 MR. HUNTER: -- either --

23 CHAIR FOLEY: -- her, I do not believe. She
24 didn't know the process.

25 MR. HUNTER: Okay, all right. I'm fine. I'm

1 fine. I'm -- I'm done with -- with cross on -- on
2 Ms. Plascencia.

3 CHAIR FOLEY: Okay.

4 MR. HUNTER: And I'd like to go to her -- her
5 letter of September 10th, 2020, if I could, please,
6 which is also written testimony.

7 CHAIR FOLEY: Okay. And is -- okay. And is
8 this rebuttal?

9 MR. HUNTER: Yes, it is this is under my
10 rebuttal.

11 CHAIR FOLEY: Okay. What page is it,
12 Mr. Hunter?

13 MR. HUNTER: It would be page number 180 on --
14 in -- in your record.

15 CHAIR FOLEY: Okay.

16 MR. HUNTER: I'll give everybody a second to
17 get there. All right. And so I'm going to go to the
18 -- I don't know what sentence is here, one, second,
19 third, fourth, fifth, sixth sentence it says, at the
20 December 3rd, 2019, City Council meeting, I asked staff
21 that staff put the union bug, labor bug on the next
22 council agenda. I'm going to refer back to, you could
23 either do the voice clip, we don't have to run it
24 again, as long as people understand that I -- I ran
25 that video at the begin of the presentation of my

1 evidence; and that's not what happens.

2 For -- for a direct quote, Ms. Plascencia
3 said, whenever it's possible. She recognized during
4 her quote, that was in the video shown, that the next
5 agenda was going to be pretty busy, and it may not be
6 possible to have it put on the 7th -- on -- on the
7 agenda for the 17th. And she had the option of calling
8 a special meeting getting either the mayor or getting
9 the rest of the council to agree if it was so dang
10 important to get it done before the new year, there
11 were options available that she chose not to employ,
12 okay?

13 So --

14 CHAIR FOLEY: Are you testifying now? Because
15 you're supposed to be in rebuttal.

16 MR. HUNTER: Well, I am rebutting, right? I'm
17 rebutting certain -- the -- the evidence that's been
18 presented on this piece of paper.

19 CHAIR FOLEY: (Indiscernible).

20 MR. HUNTER: Okay, okay. Secondly, if you
21 look at, I expressed to Al that my assistant and I were
22 eager to get out into the community to introduce
23 ourselves and pass out business cards so that the
24 residents could get to know us and be able to contact
25 -- to contact us. I would state that if -- I guess

1 maybe I'll ask this question to -- to Ms. Plascencia.

2 Would a -- would a normal business card
3 without the -- the union bug on it have your contact
4 information?

5 COUNCILWOMAN PLASCENCIA: Can you say that
6 again? You cut off.

7 MR. HUNTER: Would -- would a normal business
8 card without the union bag -- bug have your contact
9 information so that you -- people could still get ahold
10 of you, correct?

11 COUNCILWOMAN PLASCENCIA: As I stated before,
12 we --

13 CHAIR FOLEY: Asked and answered.

14 COUNCILWOMAN PLASCENCIA: -- tried to --

15 CHAIR FOLEY: Excuse me. I'm going to
16 interrupt. Asked and answered.

17 Dave, you wanted to say something?

18 MEMBER STAHOVICH: Yeah. My -- I'm confused
19 again. Are we doing cross-examination still, or are
20 we --

21 CHAIR FOLEY: Rebuttal.

22 MEMBER STAHOVICH: -- doing rebuttal?

23 CHAIR FOLEY: Rebuttal.

24 And if you can't keep --

25 MEMBER STAHOVICH: Well, rebuttal is not

1 questions.

2 CHAIR FOLEY: Right. You said you were
3 doing --

4 MR. HUNTER: Okay.

5 CHAIR FOLEY: -- rebuttal now, Mr. Hunter.

6 MR. HUNTER: Okay. So it's just rebuttal
7 evidence at this point in time?

8 CHAIR FOLEY: Uh-huh.

9 MR. HUNTER: Okay. I guess I will go to page
10 number 214, beginning 214. And actually it will be,
11 specifically it will be page 17, and I'd like to
12 respond -- basically rebut Ms. Plascencia's statement
13 that this was, you know, perhaps that she was ignorant
14 as to how the procedure worked. Is that it
15 specifically says in this evidence that there was a
16 training orientation on the Sunshine Ordinances given
17 on December 6th.

18 And while that may have been after
19 December 3rd, it was certainly well before
20 December 14th when this item was placed on the urgent
21 calendar.

22 CHAIR FOLEY: Okay, okay. We need --

23 The councilwoman is requesting a break. We
24 allow breaks when people need them.

25 Eva, can you give us a three-minute break,

1 please?

2 MS. ARSEO: Yes. I'll start the timer.

3 CHAIR FOLEY: Okay. Thank you.

4 (Break)

5 CHAIR FOLEY: Okay. Mr. Hunter.

6 MR. HUNTER: Thank you. I'm back. I'd like
7 folks to look at page 24 of their manual again.

8 CHAIR FOLEY: (Indiscernible).

9 MR. HUNTER: Is everyone back?

10 CHAIR FOLEY: Yeah.

11 MR. HUNTER: Okay. I'd like folks to look at
12 page 24 of their --

13 CHAIR FOLEY: And remember --

14 MR. HUNTER: -- administrative --

15 CHAIR FOLEY: -- I wanted to caution you
16 rebuttal is not testimony. It is evidence that it goes
17 against, you know, what the person presented. Do you
18 have evidence?

19 MR. HUNTER: Yes.

20 CHAIR FOLEY: Okay.

21 MR. HUNTER: This is why I'm -- I'm showing
22 page 24.

23 CHAIR FOLEY: Okay.

24 MR. HUNTER: So this is a -- the -- the city
25 business card, as I understand it. There has been

1 previous testimony provided that, you know, you could
2 have the recycling symbol, you could have equal
3 opportunity, affirmative action on -- on the -- on the
4 -- on the business cards; but we don't have that, okay?
5 All we have is a union bug. So when people are
6 thinking about precedent, please keep that in mind,
7 okay?

8 I -- I did have one more, I guess, you know,
9 part of the -- the -- the problem with this process is,
10 since I don't get to hear a lot of the testimony until
11 it actually occurs, it's very hard to offer rebuttal
12 evidence. So one thing I'd like to offer is that I
13 looked at, while it was -- the testimony being offered,
14 is the word urgent. Some people think it means all
15 sorts of different things. Urgent has a very plain
16 definition. I looked it up in the dictionary in
17 dictionary.com.

18 CHAIR FOLEY: You're testifying.

19 MR. HUNTER: Well, I'm just saying, I mean, I
20 would show you the definition of urgent on a -- on a --
21 if I would have known that this was going to be subject
22 to --

23 CHAIR FOLEY: That's still --

24 MR. HUNTER: -- to people --

25 CHAIR FOLEY: -- testifying.

1 MR. HUNTER: It would be providing evidence,
2 right? What is the actual definition of the -- of the
3 -- of the word urgent.

4 CHAIR FOLEY: You're testifying to your
5 opinion -- as to your opinion.

6 MR. HUNTER: So the definition of the word
7 urgent is not evidence, it's not a fact? There's --
8 there's a -- there's -- there's not a meaning to the
9 word urgent?

10 CHAIR FOLEY: If you -- okay. If you want to
11 put -- is that -- is that your rebuttal that there's
12 another definition of urgent? Because there has been
13 no definition of urgent presented in direct testimony.

14 MR. HUNTER: Well, in the courts, if there's
15 no definition protected -- prevent -- presented within
16 the statute, it falls upon its common meaning. That's
17 common knowledge. And the -- the definition of urgent
18 is requiring immediate action or attention. That's all
19 I wanted to present. That's all. Requiring immediate
20 action or -- or attention.

21 And secondly, I'd like to present the
22 definition of partisan, because it seems to me like a
23 lot of the argument that was made was that it wasn't a
24 partisan position taken by Ms. Plascencia. In fact,
25 the city attorney --

1 CHAIR FOLEY: That's testifying.

2 MR. HUNTER: The city attorney --

3 CHAIR FOLEY: (Indiscernible) not --

4 MR. HUNTER: -- (indiscernible).

5 CHAIR FOLEY: No, you cannot testify now. You
6 have to rebut. Nothing --

7 MR. HUNTER: See --

8 CHAIR FOLEY: -- -- about partisanship was
9 mentioned in her testimony.

10 MR. HUNTER: It was in the agenda package
11 under the city -- city -- the city attorney's video.
12 He talks about the what -- that he considers it's --

13 CHAIR FOLEY: That's --

14 MR. HUNTER: -- to not be partisan.

15 CHAIR FOLEY: Brandon, would you like -- like
16 to speak to this, please?

17 MR. MERCER: Yes. Testimony is evidence, and
18 -- and he can present rebuttal by -- by testifying to
19 rebuttal facts.

20 CHAIR FOLEY: But he can't present new
21 testimony -- new evidence.

22 MR. MERCER: Well, rebuttal usually is new
23 evidence, and --

24 CHAIR FOLEY: Okay.

25 MR. MERCER: -- that it's used to --

1 CHAIR FOLEY: Okay.

2 MR. MERCER: -- to rebut a fact that was
3 presented. And I believe there was some evidence
4 regarding nonpartisan -- nonpartisan of the union bug.

5 CHAIR FOLEY: Yeah.

6 MR. MERCER: So if he wants to define
7 partisan, for whatever it's worth, I mean, it's -- it's
8 rebuttal.

9 CHAIR FOLEY: Okay, all right. Mr. Hunter.

10 MR. HUNTER: Now, and I'm almost -- I'm almost
11 done here, so I'm not going to drag this out, but I --
12 I think it's important, because the defense is saying,
13 listen, it's okay, it's perfectly fine that we put
14 these union bugs on here because it's considered non --
15 nonpartisan, right? And yet I look up the word
16 partisan, and it has a very specific meaning. It says,
17 either one, a strong supporter of a party, cause, or
18 person; or two, prejudiced in favor of a particular
19 party, cause, or person. And I can't think of anything
20 more than partisan you could do when you've gotten
21 \$93,000 from labor unions than put their union bug on
22 their -- on your business card.

23 That is as partisan as partisan gets. And
24 you cannot hide behind the city manager maybe not
25 preparing the report well enough. You have to take

1 responsibility as the -- as -- as -- as the city
2 councilperson. It's your report, your name on it, as
3 it says submitted by on page 8 of that package. And
4 you can't hide behind the city attorney's bad opinions.

5 He's given bad opinions in the past. It's
6 been in the paper recently about the Russo contract.
7 (Indiscernible) attorney tell you that you could -- you
8 -- you could go down Main Street and hit every
9 pedestrian you wanted to, and it would be legal, but
10 ultimately if you do that, you're the person
11 responsible. And it's not the city attorney. Well, he
12 could be complicit.

13 CHAIR FOLEY: Okay, okay.

14 MR. HUNTER: But you're responsible. So
15 anyway, partisan does mean something. And that's all I
16 have on rebuttal. Thank you.

17 CHAIR FOLEY: Okay. Thank you.

18 Dave.

19 MEMBER STAHOVICH: It's a moot point now. I'm
20 trying to figure out where rebuttal ends and -- and
21 closing argument begins.

22 CHAIR FOLEY: And testimony. Okay, all right
23 I'm with ya.

24 Brandon will have to give us a training.

25 Councilwoman Plascencia, do you have any

1 cross-examination for Mr. Hunter, or do you --

2 COUNCILWOMAN PLASCENCIA: No, I do not.

3 CHAIR FOLEY: Okay. Do you have any rebuttal?

4 COUNCILWOMAN PLASCENCIA: No.

5 CHAIR FOLEY: Okay. Jessica Newman, please.

6 MEMBER NEWMAN: Yes. I just wanted to get
7 some clarification here, because part of it was the
8 rebuttal information we -- we received from Mr. Hunter.
9 And so I wanted to, if I could, ask Councilwoman
10 Plascencia if -- if she views the union bug as -- as a
11 partisan item.

12 COUNCILWOMAN PLASCENCIA: Madam Chair, may I
13 respond?

14 CHAIR FOLEY: (Indiscernible).

15 COUNCILWOMAN PLASCENCIA: Was that a yes?

16 CHAIR FOLEY: Yeah.

17 COUNCILWOMAN PLASCENCIA: Okay. Thank you.

18 No, I don't consider it a partisan insignia.
19 If -- if it was -- if I considered it, I wouldn't have
20 asked to put it on my council cards.

21 CHAIR FOLEY: Gloria.

22 MEMBER HUERTA: I have a follow-up question
23 for Ms. Plascencia then.

24 What was the purpose or the -- what was your
25 reasoning, what is the -- is the significance of your

1 placing the union bug on your business -- on your City
2 of Riverside business card?

3 COUNCILWOMAN PLASCENCIA: So I see my role as
4 a councilwoman is to support our community. And a big
5 part of our community is our employees. So many of you
6 know I'm a school counselor, so I'm a union member.
7 And for me, that's how I --

8 Bless you.

9 -- that's how I grew up, in supporting
10 middle-class values, supporting our employees, making
11 sure that we all have that voice. And so for me, it's
12 not -- I didn't put, shop here, support this business
13 or this particular union, not even my own, right? It
14 was just that, we support our employees. And for me,
15 it was about supporting our employees, our community.
16 So that's what that meant to me. Nothing more, nothing
17 less.

18 And so I don't see that as a partisan issue.

19 CHAIR FOLEY: Okay. So if there's no -- so
20 are we all done with rebuttal?

21 Taylor, let's -- I'll get to you in a second.

22 Are we all done with rebuttal?

23 MR. HUNTER: Yes.

24 CHAIR FOLEY: Councilwoman Plascencia, are you
25 done with rebuttal?

1 COUNCILWOMAN PLASCENCIA: Yes.

2 CHAIR FOLEY: Is that a yes? I saw that
3 little yes.

4 Okay. Taylor.

5 MEMBER KEEN: Who, if any other
6 councilmembers, have union bugs on their business
7 cards, Ms. Plascencia, is it just you? Do you know?

8 COUNCILWOMAN PLASCENCIA: I know that
9 Councilmember Fierro. I'm not sure about the others,
10 but they're -- I -- I don't have their business cards
11 actually, so I'm not sure. Sorry, Taylor.

12 MEMBER KEEN: That's okay. Thank you.

13 CHAIR FOLEY: Okay. I think we're to closing
14 statement.

15 So, Eva, can you tell each, the complainant
16 and the respondent, how much time they have for their
17 closing statement?

18 MS. ARSEO: Yes, Madam Chair. Jason Hunter
19 has ten minutes left, and the --

20 CHAIR FOLEY: We can't hear you. You're
21 muted.

22 MS. ARSEO: I apologize. I didn't want you
23 hearing my typing here, and I keep muting myself. So I
24 have Jason Hunter's time left at ten minutes, but the
25 question about Councilwoman Plascencia's time, I ran it

1 as her presentation of her case through -- through the
2 whole 25 minutes, and apparently part of that was her
3 opening statement.

4 CHAIR FOLEY: Yeah. I think --

5 MS. ARSEO: So --

6 CHAIR FOLEY: -- the consensus is that she has
7 seven minutes from the people that timed after her
8 opening statement. Isn't that --

9 Taylor, is that what you got? And someone
10 else got, Gloria, someone else got to seven minutes,
11 correct?

12 MEMBER KEEN: I had a stopwatch --

13 CHAIR FOLEY: Is there --

14 MEMBER KEEN: -- going, and that's what I had.

15 CHAIR FOLEY: You had seven minutes? I think
16 Mr. Hunter had seven minutes also. Okay.

17 So, Mr. Hunter, you had seven -- you have ten
18 for her -- ten for you, seven for her -- her. I'm
19 pointing at you like we're really here together. Okay.
20 So the -- do you want to go -- you go first, Mr. Hunter
21 with your closing statement? You have ten minutes.

22 MR. HUNTER: Thank you.

23 CHAIR FOLEY: And Eva --

24 MR. HUNTER: And I appreciate --

25 CHAIR FOLEY: -- will start you.

1 MR. HUNTER: And I appreciate the time that
2 the -- the ethics panel has put into today's meeting
3 and the prehearing. We've come a long way in the last
4 three years, in my opinion. And -- and so I think
5 that, believe it or not, even though I get emotional at
6 times, I think the process is -- is getting better and
7 can use some probably, some -- some iterations as well
8 and it will be even better in the future.

9 But so common sense would -- would dictate
10 that using regular business cards, which was the
11 alternative, versus union -- using ones with the union
12 bug on them for a few extra weeks is not the definition
13 of an urgent matter by any reasonable person. And it
14 was de minimis in cost.

15 And so what would be the reason? Well, we --
16 we -- we've come up with some. COVID would be a good
17 reason, right? The -- the -- the game is changing, and
18 it's urgent, there's -- there's health and safety at
19 risk. Maybe even late-breaking legislation --
20 legislation, but not, I ordered business cards and 35
21 bucks, not \$35 business cards that can just be
22 reordered in the future.

23 And I don't have to prove that number under
24 these rules beyond a reasonable doubt. It is just
25 simply preponderance of the evidence. And it's not

1 just the letter of the law, it's the spirit of the law,
2 as well.

3 The word urgent has a meaning. And the --
4 and the meaning of urgent is, if I can find it again,
5 it's not a matter of perspective, right, it's requiring
6 immediate action or attention, immediate.

7 And so what would a reasonable person say to
8 this? This -- that's how you have to adjudicate this,
9 in my -- in my opinion. So this is a provision that's
10 been discussed and changed a couple of times in council
11 in the last year. Well, why? Why? Why now? I -- I
12 would argue that in the past it hasn't been abused, but
13 now it has. It's -- it's -- it's being abused, which
14 is why the council has had to take it up. So the
15 council thinks that it's being abused.

16 Mr. Zelinka said, during his testimony that
17 he didn't think it was an urgent item until
18 Ms. Plascencia decided to put it on the urgent
19 calendar, and that's why he was caught unprepared to
20 write a bona fide report, which is not fair to the
21 public. And integrity of the process is important.
22 Public confidence is important.

23 Unions are the largest special interest in
24 the city of Riverside. They are on every single agenda
25 package you will find. So the whole concept that

1 putting a union bug on your business cards is not
2 partisan falls flat on its face to any reasonable
3 person who understands that we're negotiating, and
4 currently we're doing union negotiations for the next
5 round of MOUs, right, so it's a partisan issue. I
6 don't care what the city attorney says. He's been
7 wrong so many times I've lost count, quite frankly.
8 And so we shouldn't have this on there.

9 Now, once again I said, well, what was so --
10 let's -- what's -- what's my ask? My ask is, you know,
11 sustain the complaints. Number two, if you can't --
12 especially on the -- on the -- on the -- on the
13 Sunshine Ordinances. That is clear to me. That's --
14 that's beyond -- that's beyond a reasonable doubt.
15 It's certainly clear and convincing, which is beyond
16 what I need.

17 But then to make a recommendation, if you
18 can't find a sustained complaint on the actual union
19 bug being on the card because there's some sort of
20 loophole, and I'm not saying there is, but in the
21 alternative pleading, this is what I would say, make a
22 recommendation to the council to specifically place a
23 restriction on placing any insignia on city collateral
24 -- collateral that is not the City of Riverside's and
25 put it in the prohibited conduct section of the Code of

1 Ethics and Conduct because the public doesn't want
2 this, okay? This -- this -- this stinks to high
3 heaven.

4 Thirdly, perhaps file -- file a complaint
5 with FPPC and see what their, you know, if -- if you're
6 not comfortable with it and you want further guidance,
7 send it back -- send it over there. And I -- and --
8 and if you do find that it's just -- it's -- it's a
9 sustained complaint, that you also find that you should
10 be destroying all the city collateral with the union
11 bug on -- on -- on them.

12 Because here's -- here's what I keep
13 thinking, what's my alternative? My alternative is if
14 this isn't resolved, I'll be asking for all sorts of
15 logos to be on the city business cards. They're going
16 to look like a NASCAR race car when I'm done with them,
17 right? Because there's a First Amendment problem here,
18 right? Which ones can go on and which ones can't? And
19 trust me, I'll be asking. I -- I don't want the city
20 to get sued. This needs to be resolved by the -- by --
21 by the -- by the -- this panel.

22 And so on close, I'm going to say a couple of
23 things. In -- inside our ethics code, we have core
24 values. Now, we have prohibited conduct and core
25 values, but we're trying to get to the spirit of the

1 ethics code, so I'm going to read some of these core
2 values. And as I read them, think about the case I've
3 presented today with both the Sunshine Ordinances and
4 with this union bug fiasco, in my opinion.

5 All right. Core -- core values state, to
6 strive to create a government that is trusted by
7 everyone. The public officials of the City of
8 Riverside shall aspire to operate the city government,
9 exercise the responsibilities in a manner which creates
10 trust in their decisions in the manner of delivery of
11 programs through the local government. The public
12 officials shall aspire to create a transparent process
13 making process by providing easy access to all public
14 information about actual and potential conflicts
15 between the private perfect and the public
16 responsibilities.

17 Did that happen here? Did you see that?
18 Because I didn't.

19 Number two, strive to make decisions that are
20 unbiassed, fair and honest. The public officials of
21 the City of Riverside shall aspire to ensure that the
22 decisions are bias, fair, and honest. They shall
23 strive to avoid participation in all decisions which
24 create a real perceived conflict of interest and to
25 disclose any personal interest that would have been

1 perceived in the conflict with the fair and impartial
2 exercise to their responsibilities.

3 Did you see that here in any of the dealings
4 that went on with this union bug and -- and with that?

5 Look, to -- to strive to ensure that all
6 public decisions are well informed, independent, and in
7 the best of interest of the City of Riverside; the
8 public officials of the City of Riverside, will
9 encourage and support research and information gather
10 -- gathering for verifiable sources. It will seek to
11 ensure the information provided by the city government
12 to the public is accurate and clear.

13 Did you see any of that here in this process
14 that went down when we got these -- these union bugs?

15 And lastly, to strive to maintain a
16 non-positive -- nonpartisan in the state body and local
17 government.

18 And partisan, okay, partisan means a strong
19 supporter of a party, cause, or person or prejudice in
20 favor of a particular party, cause, or person, right?

21 The public -- it says, the public officials
22 in the City of Riverside shall affirm the value of
23 nonpartisan council manager formal government.

24 Is putting the union bug on the business
25 cards achieving that goal with the general public? And

1 remember, you just did preponderance of evidence. You
2 don't need anything beyond that. It's 51 percent.

3 And it has to be within the spirit and the
4 letter of the law. It doesn't have to be the letter.
5 It can be within the spirit. And I just read to you
6 what the spirit should be and how it should be
7 interpreted out of our own Code of Ethics.

8 I just don't see, particularly with -- with
9 the Sunshine Ordinances, how you cannot sustain the
10 complaint, quite frankly. And secondly, if you don't
11 sustain on the union bug, I don't see how you can't at
12 least refer this to the council to solve this problem
13 once and for all, because it is a problem, and it's not
14 going to go away.

15 And if pressed, I think there is substantial
16 First Amendment issues here that create legal liability
17 and risk for the City. So let's clear this up. Let's
18 move forward. Do I think it's the -- the -- you know,
19 the most evil thing and -- and terrible thing that ever
20 happened? No. But I do think it needs to be dealt
21 with, okay? And we need to move forward, and we need
22 to inspire public confidence in our institutions.
23 Thank you very much.

24 CHAIR FOLEY: Councilwoman Plascencia.

25 COUNCILWOMAN PLASCENCIA: Thank you, Madam

1 Chair and commissioners. I appreciate this opportunity
2 to -- to talk to all of you and give you my perspective
3 on things. There was a lot of accusations and
4 assumptions about my intentions, about the spirit of
5 the law; but we don't have the ability to just follow
6 the spirit of the law. We have to follow the law,
7 which we did.

8 And so I hope that, in my responses to all of
9 your questions, you can understand the frame of mind
10 and some of those questions that you still may have in
11 terms of the Sunshine Ordinance and all those things
12 will be addressed by the council in the future, which
13 we are moving in that direction.

14 As Al put it best, are it's like drinking
15 from a fire hose, I think that was the comment, it is a
16 learning curve. There's a lot to learn. And I do not
17 stand and hide behind the city manager. When I read
18 the report, I didn't think there was anything wrong
19 with it, so yes, my signature goes on there. So I'm
20 not trying to take away from that. It is my
21 responsibility when I sign things. And I did approve
22 it.

23 Obviously, all the questions that you had are
24 not things that come up when we're going through this
25 process, especially my first month in. So I hope that

1 you look at the facts and keep in mind the spirit in
2 which I -- I govern from, which is fair and equitable
3 to all of our community members, including our city
4 employees.

5 So for me, as I mentioned earlier, there was
6 no, I-got-ya. I was not trying to -- to not be
7 transparent. It was simply what I stated was, I wanted
8 to get out there and meet the constituents. That was
9 it. So I hope that you keep that in mind when you make
10 your decision. Again, thank you for your time.

11 CHAIR FOLEY: Thank you.

12 This concludes that portion of the hearing,
13 and now it's time for deliberation and discussion.

14 And, Brandon, would you like to speak first?

15 MR. MERCER: Yes, hi. I just wanted to clean
16 something up. We had public comment on this item, item
17 number two, relatively early. And it's my
18 understanding from IT that the phone system was not set
19 up for the public comment. So I would suggest, since
20 the case is, everybody has -- has presented their case,
21 now would be a good time to reopen this to public
22 comment since we kind of surprised them when we did it
23 earlier.

24 Maybe we could take like a two-minute break,
25 and then just --

1 CHAIR FOLEY: Where is it?

2 MR. MERCER: -- open it up to see if we have
3 any public comment.

4 CHAIR FOLEY: Okay. My understanding, they
5 were supposed to be doing that for us each time,
6 because they cut off the call when the three minutes is
7 up. That's what I was told. But anyway, yes, I don't
8 care. Let's open it up. Take a break, let them get
9 ready to open it up for public comment again. No
10 problem.

11 Thank you, Brandon.

12 MR. MERCER: Yeah, we never get in trouble for
13 letting people have extra opportunities to speak.

14 CHAIR FOLEY: I have no problem giving them an
15 opportunity. So let's make -- how long do they need to
16 set up, Brandon? Oh, I can see that --

17 MR. MERCER: I think they need like two
18 minutes.

19 CHAIR FOLEY: All right. Two-minute break.

20 MEMBER STAHOVICH: Make it five.

21 CHAIR FOLEY: Okay. Five-minute break.

22 (Break)

23 CHAIR FOLEY: We got Gloria. We got Tyler.
24 We got Jessica.

25 MEMBER HUERTA: I'm back.

1 CHAIR FOLEY: Okay. So it's time to start the
2 deliberations and discussions for the panel. Does
3 anybody want to start off?

4 MEMBER STAHOVICH: We're wait -- we were
5 holding for a phone call.

6 CHAIR FOLEY: Oh, I forgot. See, don't give
7 me a break. I'm old. The brain goes. Okay, okay.
8 I'm sorry, we have callers on the line. We have one
9 caller. Okay. Let's have the caller --

10 MEMBER STAHOVICH: And if they can identify
11 themselves, too.

12 CHAIR FOLEY: Right. Can we have the caller
13 and have them self-identify, please?

14 MR. MUNOZ: Ladies and gentlemen, thank --
15 thank you very much for your time. My name is Juan
16 Munoz, and I live here in Riverside.

17 CHAIR FOLEY: Hey, Gloria.

18 MR. MUNOZ: Hello. I'm hearing some feedback
19 here. I apologize. Anyway, my name is Juan Munoz. I
20 am a resident of Riverside. And I want to say that the
21 reference where the gentleman said that all these
22 contributions were made to Ms. Plascencia, I don't see
23 anywhere that the Allied Trades Printing made a
24 contribution to her and therefore she's beholden to
25 them. Quite the opposite.

1 All -- all -- all union trades prefer a union
2 bug on their cards, on their shirts. It's a pride
3 thing that we all -- that we all use that say, hey, you
4 know what, I stand behind my brothers, and I stand
5 behind my sisters.

6 That this man here said that there's a big
7 outrage in the public because of it; he didn't present
8 one person from the public that's -- that's outraged.
9 Quite the opposite. I think this is something, maybe a
10 personal vendetta or something, but he is wrong.
11 That's all I want to say. Thank you.

12 MR. JOHNSON: Thank you. Hey, everybody, my
13 name is Steve Johnson. I am a resident of Riverside,
14 California. We also have a Facebook page called, What
15 is Going on Riverside County and Riverside County
16 Media. We have been following these hearings, updates,
17 and whatnot specifically related to this with other
18 things, which I won't go into; but I just wanted to
19 touch on that it is a -- I -- I personally feel that
20 when City Council meetings are broadcast live on
21 Facebook, it gives the public an opportunity to watch
22 it in an easy manner, one that is known by all, to be
23 able to call, to be able to comment, and to give their
24 feedback on something of this magnitude which is going
25 on today.

1 The fact that this meeting was not shared on
2 Facebook live, I believe is a great disservice to the
3 possible outcome of this. It does not give the public
4 a -- the easiest option to follow it or comment, which
5 is why you will see that there was only one caller
6 earlier, actually two or three, for public comment, and
7 I believe I'm the second one at the end of this.

8 We have run many polls on this thing, and
9 there -- there has been a lot of negative feedback
10 towards Councilman -- Councilmember -- Councilwoman
11 Gabrielle Plascencia on this specific matter, as well
12 as others.

13 In the future, I think we can build on this
14 and actually put it on to a Facebook live platform so
15 the public can actually speak their mind, they can be
16 heard, they can know the avenue in which to easily
17 watch this and to give their feedback. So best of luck
18 to everybody, and thank you.

19 MS. RITTER: Hi. My name is Stacy Ritter. I
20 am a resident in Ward 5. I have been living in
21 Riverside since 1993. I am one of those that
22 questioned Councilmember Plascencia's motives of
23 putting the union bug on her card. I also agree with
24 Mr. Hunter in all of the things he said. It makes me
25 really wonder what's going on and what her motives are.

1 To boot, and nobody brought up -- this up,
2 but I know everybody has seen the post that Plascencia
3 posted on Facebook around Labor Day. That was when I
4 first saw that, and it made me very angry. I am not
5 100 percent for unions. So she did ostracize quite a
6 bit of her constituents of Riverside.

7 And I think that listening to Mr. Hunter's
8 presentation this evening, nobody can deny that there
9 were definite ethics violations. And if the ethics
10 board doesn't move forward with that, then they need to
11 be looked into as well. That's all. Thank you so much
12 for your time.

13 MS. TEUNISSEN: Thank you very much. My name
14 is Judy Teunissen. I am a Ward 5 resident. And I want
15 to make sure that everybody understands that Gabrielle
16 Plascencia knew the rules. She was told the rules, and
17 she decided to ignore them because she thought she was
18 above the rules. This is an issue that needs to be
19 brought before all city councilpeople. And she has no
20 power as one single person.

21 She got caught, and now she's claiming
22 ignorance and getting the staff to support her, which
23 is, in itself, a conflict of interest and a violation.
24 It puts her in a position to criticize one of their
25 bosses, a horrible moral dilemma to be forced into.

1 Nobody in our city should put our staff members in the
2 position that this woman has done, nor should she put
3 anybody that is a volunteer board member into this
4 position.

5 Did you hear me? This is called volunteer.
6 We get paid nothing as a board member. We do it on our
7 time, not for pay, not for anything except for the fact
8 that as a board member we believe we can make a
9 difference in our city, the city we love, the city we
10 were born in, the city we have ingratiated ourself
11 into.

12 So this is highly, highly suspect in her
13 dilemma of how she wants to present it. Thank you.

14 MS. PIKE: Thank you. Hello. My name is
15 Susan Pike. And I am a member of Ward 5, which is
16 Ms. Plascencia's ward. And I'm calling. I'm so glad I
17 actually saw this listed on Steve Johnson's web page
18 (indiscernible) page, because I knew that it was coming
19 up, but I had no idea when or what time.

20 I didn't get to hear a lot of it
21 unfortunately, but I did get to hear Councilwoman
22 Plascencia's response, which essentially is where
23 Ms. Plascencia pleaded ignorance. She didn't know.
24 She was a new councilmember. You know, as a school
25 counselor, I'm sure she's heard that excuse many times

1 from her students, oh, I didn't know. You know, I
2 wonder how she responds to that.

3 It is her position, as a councilmember, to
4 find out something if she doesn't know. And this is
5 just another example of her trying to get away with
6 something sneaky. I know that the other incidences
7 have not been brought up at this meeting, I -- I don't
8 believe anyway, I haven't seen anything that would
9 indicate that; but it's not the first time, but I think
10 we all know that.

11 It doesn't say much for integrity,
12 unfortunately, and -- and that just makes me sad. She
13 does not represent me. And I would like to see her try
14 a little harder. That's all I've got to say. Thank
15 you so much for your time.

16 CHAIR FOLEY: So, Trevor, are you saying that
17 we have no other public comment?

18 One moment. Okay. Phone lines are now
19 closed. It's time for deliberations and discussions.
20 And we have to determine, Jason's complaint alleges
21 that there is violations of C, use of city resources
22 for non-city purposes, D, advocacy of private interests
23 of third parties in certain circumstances, E,
24 endorsements for compensation, F, violation of
25 government code section 87-100 et cetera, conflict of

1 interest and violations of federal, state, or local
2 law.

3 And the -- the allegations have to be proved
4 with a preponderance of evidence. So let's begin the
5 discussion.

6 MEMBER HUERTA: Dave wishes to speak.

7 CHAIR FOLEY: Dave.

8 MEMBER STAHOVICH: Yeah, just a quick
9 question, should -- do we need to formally close the
10 public comment, or can we just jump into deliberations?

11 CHAIR FOLEY: I -- well, they closed the phone
12 -- they said the phone lines are closed.

13 MEMBER STAHOVICH: I know, but did we take --
14 do we need to take the action to close -- close that
15 portion and --

16 CHAIR FOLEY: I think --

17 MEMBER STAHOVICH: -- close public comment so
18 we can do deliberations without further interruption?

19 CHAIR FOLEY: Okay. I'll just simply close
20 public comment at this time.

21 MEMBER STAHOVICH: Thank you.

22 CHAIR FOLEY: You're welcome. Keep me in
23 line, Dave.

24 MEMBER STAHOVICH: You're doing great.

25 CHAIR FOLEY: Thank you.

1 Okay. Now we're onto deliberation. Well,
2 I'll start with -- with some of it. I think it's a
3 complicated issue. I -- I -- I think that there's a
4 lot of work that the City Council needs to do on these
5 issues. I think that, in fact, not only was
6 Councilwoman Plascencia using the urgent excuse for
7 adding things late to it -- to the agenda, it appears
8 that many other councilpersons were doing that as well,
9 to the degree that, according to testimony, that the
10 City Council has now decided to look at that ordinance
11 language and to change that ordinance language so this
12 practice does not continue. So I think that is one
13 element of it.

14 The other element of it, I think, is that the
15 city attorney said, you know, whether you personally
16 like, you know, a union bug or not, the city attorney
17 said that it was legal to have it on your, you know, on
18 your -- on your business card. And I think whether or
19 not it's the best thing to do, I -- I think is, you
20 know, another discussion.

21 So one of the things that kept occurring to
22 me, as I do think that the issue should have been
23 referred, and I don't -- you know, we've talked about
24 having a formal process, so but the issue probably
25 should have been referred originally to the ethics --

1 the -- the board -- the ethics board to discuss it.

2 That's just my beginning.

3 Dave.

4 MEMBER STAHOVICH: Yeah, I had a couple of
5 concerns. And again, it's trying to find the right
6 place to start. My concerns have to do with the issue
7 was brought up at one meeting saying, let's get it on
8 sometime soon, you know, it clearly didn't look like an
9 urgent matter; but I understand, you know, trying to --
10 wanting to try to get something done as soon as
11 possible.

12 I'm equally concerned with the way it was
13 actually agendized. It did not look like an action
14 item. It was more, let's have a discussion and see
15 where it goes. And again, that is something that I
16 don't know how -- how far it goes. It -- to me it
17 almost looks like a Brown Act violation. I'm not sure
18 that -- you know, that's not the complaint right now,
19 and that certainly would not be the -- necessarily the
20 responsibility solely of -- of the councilwoman, but I
21 don't believe that the item was clearly defined.

22 I'm concerned that there were agendas in the
23 audience that did not have this listed. I did go
24 through the entire agenda, as it was introduced, and
25 did look at some of the other items that were added.

1 And, you know, again they were significantly different.
2 I'm not going to add any new testimony.

3 But my concerns are more so on the Sunshine
4 Ordinance, the fact that enough was known about the
5 Sunshine Ordinance to get a second signature on there,
6 shows to me that at least it was looked at. So I have
7 a concern about that.

8 The issue of the union bug, you know, my dad
9 was a union carpenter, I have nothing against the
10 union. I -- I -- I know a lot of union people. So I
11 don't think it's an issue about unions, per se. I do
12 have concerns that there are things like, you know, the
13 -- the manual for, you know, the city logos that have
14 been approved.

15 Now, the fact that things have happened in
16 the past, the current council is by no means, their
17 hands are not tied to take a different action than one
18 that has happened in the past. I understand and
19 appreciate that this council can go a completely
20 different direction.

21 My concern, again, is that whether it was
22 properly agendized, whether it meets the Sunshine
23 Ordinance, and whether the people, residents -- the
24 residents of Riverside had adequate notice to voice
25 their concerns. To me, that's where the -- the -- the

1 issue lies.

2 CHAIR FOLEY: Okay. Jessica.

3 MEMBER NEWMAN: Yes, thank you, council --
4 Chair.

5 CHAIR FOLEY: Who am I?

6 MEMBER NEWMAN: Chair Freya. Yeah, back to
7 the beginning. You know, I just wanted to, a little
8 bit here, echo Dave -- Dave's comments a minute ago.
9 You know, I -- I really -- I do have concerns about the
10 Sunshine Ordinance. And -- and I do, I think it -- it
11 -- that, like he said, it was signed, so there was an
12 understanding of -- of what it was. I -- I don't see
13 -- I understand wanting to get out into the public, but
14 I don't see the same sense of urgency.

15 And -- and -- and also really going back to
16 what Dave said is that, it seemed to be it was going to
17 be a discussion, not to get moved into an action item
18 and just passed, you know, in -- in the blink of an
19 eye.

20 And -- and I do also have concern that
21 Councilwoman Plascencia was cautioned during that
22 second meeting to say, you know, should this be brought
23 forward to a commission or to the Board of Ethics,
24 should we look further, and she dismissed it and -- and
25 just said, no, I -- I want to just proceed. And -- and

1 I understand she had support. And -- and I -- you
2 know, I understand how things were passed and -- and
3 how they did get through, but I definitely show -- or
4 do have concerns about how that advice was -- was
5 ignored and -- and that -- and that this did move
6 through.

7 And I do have concerns about the public not
8 having an opportunity to -- to give their opinion and
9 for further discussion to happen before it was said,
10 okay, let's move ahead because two people said that
11 they were in favor and -- and -- and change, you know,
12 change the -- the business cards for the -- for the
13 City.

14 CHAIR FOLEY: Okay. Thank you.
15 Gloria.

16 MEMBER HUERTA: I -- I have several concerns.
17 And I think there were multiple ethics violations that
18 were demonstrated tonight in the documentation evidence
19 that was presented. On page 164 of our packet, it --
20 we have our code of -- the ethics ordinance. And our
21 core values are, number one, to strive and create a
22 government that is trusted by everyone. When things
23 are done in secret, whether it was intentional or not,
24 people are excluded from that decision-making, and it
25 -- and it bears the appearance that individuals or

1 groups are trying to subvert the transparency that we
2 have taken years to -- to build in the City of
3 Riverside.

4 Number -- the second one, this is under
5 2.78.050B, to strive to make decisions that are
6 unbiassed, fair, and honest. I think that the council
7 and Ms. -- Ms. Plascencia tried to have a discussion
8 about the -- the -- the possibility of adding the union
9 bug to their -- the business card, but I think that the
10 way it was presented, with the documentation that went
11 to City Council, it was extremely biased, it was
12 extremely unclear. And it did, to me, reviewing all
13 this data, make it seem like somebody was trying to
14 hide something.

15 C, core value, to strive to ensure everyone
16 is treated with respect and a just and fair manner. I
17 am not anti union. I have belonged to unions. I have
18 son-in-laws and children who are union members. And I
19 applaud them, and I appreciate their -- their work.
20 And I appreciate the -- the unions and the benefits I
21 have derived from them as a nurse in my career. But I
22 think when you single out one organization over
23 another, you do make it a partisan issue.

24 You do go to D and -- and F, and you make
25 sure that -- it's not just diversity any more. We are

1 -- we are excluding individuals who are not union
2 members. That's the message I take away when I see
3 information that indicates somebody is really pro-union
4 and that they're supporting union labor, union
5 purchases.

6 I don't think that -- and -- and on page 165
7 of our packet, E, that the public decision was well
8 informed. And it definitely was not in the best
9 interest of the City of Riverside, in my personal
10 opinion, because it was partisan. It didn't bring
11 people together. It -- it shredded people apart. It
12 created adversity, it created strife, and it still
13 does.

14 I do believe there was prohibited conduct,
15 and I believe that both the use of the union bug, as
16 well as the blatant violation of the Sunshine Ordinance
17 to ask that something be put on an agenda at a future
18 date and then to rush and make it an urgent matter four
19 or five days before the City Council was to meet, is an
20 abuse of power.

21 CHAIR FOLEY: I just want to say one thing,
22 Gloria, that we have to remember, we're looking for
23 violations of prohibited conduct. And I understand
24 that, you know, our ethics are -- the core values
25 underline our ethics, but we have to look at violations

1 of core value -- or core -- I'm sorry -- prohibited
2 conduct.

3 MEMBER HUERTA: I understand that. And I
4 believe that what I've elaborated on in core values
5 demonstrate that there was a violation of prohibited
6 conduct in multiple ways, including the use of city
7 resources for non-city purposes prohibited, which the
8 action to take it before the City Council and rush to
9 get approval for the bugs really, I believe, violates
10 that portion of the ordinance.

11 I believe it's the advocacy of the private
12 rights of third parties and not all people of the
13 United States or in Riverside. I believe it's
14 endorsement, whether it is an endorsement for
15 compensation or not, I can't make that decision because
16 we only have past records of comping -- campaign
17 contributions. We don't know what's going on at this
18 point. And I do believe it's a political activity. I
19 don't see that it was a violation of the government
20 code.

21 CHAIR FOLEY: Okay. But she was advised, I
22 think, to do it this way. I'm just going to say this,
23 I think she was advised to do it this way. She -- this
24 was her first or second City Council meeting. And, you
25 know, I -- I don't want us to forget that the city

1 attorney said it was legal to put the union bug on the
2 card. So I think some -- we have to remember that,
3 that he said that, in fact, there was nothing wrong
4 with putting a union bug on the card. I mean, so I
5 think we have to remember that when we're thinking
6 about where we want to go with that.

7 MEMBER HUERTA: And I can appreciate that
8 perspective, Freya. I believe that, you know,
9 ignorance of the law is no excuse. I believe that
10 Ms. Plascencia was smart enough to have been reviewing
11 her campaign -- or her City Council obligations way
12 before the date that she was sworn in. Because I was
13 at City Hall and saw several city councilmembers
14 hauling out loads of books and papers.

15 So I -- I really believe the argument that
16 she didn't know or that somebody else said really is
17 not a good argument at this point in time for me. It
18 -- it may be some acceptable defense for other people,
19 but as far as I'm concerned, I don't buy that.

20 CHAIR FOLEY: Well, I don't buy that as an
21 argument either. I don't see it that way. I don't see
22 that as the issue. I see something different. I think
23 that the City Council was doing it. And as we heard
24 testimony, that if two City Council people said it was
25 urgent, it was accepted as being urgent. And that was

1 standard practice. It wasn't -- there was testimony
2 that it wasn't unusual, you know, to do that.

3 And to the degree that, I think when
4 Mr. Hunter filed this complaint, I believe that's when
5 the City Council took a look at their behavior and what
6 they're doing; and now they're, you know, changing --
7 looking at that language. And I -- I think that was in
8 somewhat response to, you know, Mr. Hunter filing the
9 complaint.

10 Taylor.

11 MEMBER KEEN: Is -- I think Dave was before
12 me. Dave asked to speak prior to --

13 CHAIR FOLEY: Okay.

14 MEMBER KEEN: -- me.

15 CHAIR FOLEY: I'm sorry.

16 MEMBER KEEN: So go ahead, Dave.

17 CHAIR FOLEY: I lost it.

18 MEMBER STAHOVICH: Thank -- thank you, Taylor.

19 You know, there was a little bit of testimony
20 about -- well, actually there was significant testimony
21 about the -- the union bug, but in regards to the
22 Sunshine Ordinance, the evidence provided, even the --
23 the CD provided by the councilwoman was on the issue of
24 the -- the city attorney says the union bug is legal.

25 The question I'm looking at was, was it

1 properly agendized, did it meet the Sunshine Ordinance.
2 I'm not going to have a policy discussion, what this --
3 what the city attorney's opinion might be or what the
4 council can or cannot do; but the procedures that they
5 went through are my concerns that I don't think it was
6 properly agendized. I -- I think there was
7 opportunities to say, hey, let's slow this down.

8 I -- I can't imagine risking the public
9 confidence over an extra couple days without a business
10 or a business card without a logo on it. I -- I don't
11 understand that issue.

12 Again, they did follow a part of the
13 procedures by getting the second signature on there,
14 but I -- I -- I still have significant concerns about
15 the -- the Sunshine Ordinance. I -- I think it's black
16 and white.

17 CHAIR FOLEY: Taylor.

18 MEMBER KEEN: I -- I'll echo that. I -- I
19 agree. I believe that this was not properly agendized.
20 In Al Zelinka's own words, he said he did not believe
21 it was urgent, and it was implied by Mayor Bailey that
22 it was not urgent by recommending that it go back
23 before Governmental Affairs or another board; and it
24 was pushed through anyway.

25 The discussion that took place at those City

1 Council meetings had no relevance to what was actually
2 on the agenda. The -- they're talking about insignias.
3 And if you go to insignias in that brand manual,
4 nowhere does it mention a union bug. So you couldn't,
5 as the general public, infer that that's what the
6 conversation was going to be based on that late add to
7 the agenda, nor was there any inference to the general
8 public that a vote would be taken on that agenda item
9 same night.

10 So I do agree that there was a violation of
11 the Sunshine Ordinance, or at a bare minimum, an abuse
12 of power to get a vote through on something that was
13 not at all communicated to the general public prior to
14 that meeting.

15 CHAIR FOLEY: Well, I -- I -- I think the
16 point is, when I listened to the City Council meeting,
17 the point was to get the union bug added to the
18 branding and the insignia and the -- that was the whole
19 discussion. It was known that it wasn't in there, and
20 they were talking about getting it added into there.
21 That's what that discussion was about. I do see the
22 point of the Sunshine Ordinance and the problems with
23 that.

24 Dave.

25 MEMBER STAHOVICH: Yeah. I heard -- I -- I

1 think I was listening to the same testimony, and I did
2 not hear any discussion about, we should add the union
3 bug to the branding manual. It was, I want the
4 branding manual -- I want the -- the union bug on my
5 card, and we should moved forward with it. It was not
6 a discussion about the fact that there's been -- you
7 know, that there was a branding manual that was there
8 and we should update it, we should include things like
9 the union bug and maybe other things.

10 And that's a -- that's a great discussion.
11 That's a great policy discussion for a future agenda
12 item. Albeit, it needs to be properly agendized and --
13 and at a time when the public can -- can participate.

14 CHAIR FOLEY: I --

15 MEMBER STAHOVICH: But the discussions I heard
16 did not suggest updating the manual to include the
17 union bug and taking it forward from that point.

18 CHAIR FOLEY: I thought that the city attorney
19 said that's what would have to be done in order for it
20 to go forward, to be legitimate. That's what I thought
21 the city attorney said.

22 MEMBER STAHOVICH: No, there was no testimony
23 on that here.

24 CHAIR FOLEY: No, there was --

25 MEMBER KEEN: And there was --

1 CHAIR FOLEY: -- no testimony. No, you're
2 correct.

3 MEMBER KEEN: There was no discussion of that
4 in that City Council meeting either.

5 MEMBER STAHOVICH: Correct.

6 MEMBER KEEN: It was solely in regards to the
7 business card, not to actually adjusting branding to
8 include the union bug. It was solely to get the
9 business cards printed.

10 One more thing before I pass it off is, we
11 don't have any information as to the fact that pushing
12 this vote through faster with the urgency order on the
13 Sunshine Ordinance got her business cards faster. So
14 if those business cards were not received before the
15 holidays so that she could get out in the public with a
16 business card with a union bug on it, there was truly
17 no reason to be rushing it through.

18 If those cards didn't come through within a
19 week or two of that vote and she didn't have them until
20 January, February, or out into the future, it makes it
21 very suspicious as to why we would rush that vote if we
22 can't prove that those business cards were received
23 with the urgency that she said she needed them.

24 CHAIR FOLEY: Okay. Gloria.

25 MEMBER HUERTA: I just want to echo what

1 Taylor and Dave said. I -- I think that it was
2 important that this item have greater discussion.
3 That's really -- it seemed to have been rushed through.
4 I'm -- I'm thankful that the City Council is looking at
5 a definition for urgent, because honestly in the days
6 of COVID and the things that I do for a living,
7 ordering business cards is not urgent.

8 And so I just have a lot of concerns about
9 how this transpired. I think we need to make the
10 Sunshine Ordinance stronger, that the definition of
11 urgent needs to be there; and I think that would help a
12 lot in the future with current council and any future
13 councilmembers.

14 CHAIR FOLEY: Thank you, Gloria.
15 Jessica.

16 MEMBER NEWMAN: Sorry, let me get off mute
17 here. Yeah, just to -- echoing a bit to what Gloria
18 said and -- and bringing further into discussion also
19 that, you know, if -- if the cards didn't get printed
20 prior to the holidays, I agree with Taylor; but also
21 I'm -- I'm still not really that clear what the problem
22 would be to have, you know, temporary cards issued that
23 don't have it and then wait for the discussion to
24 happen and then print a larger amount of cards.

25 I mean, you -- you can get business cards,

1 you know, printed a hundred at a time, and it's not,
2 you know -- like, the -- you know, Jason said, it -- it
3 doesn't take forever to get more and -- and have a
4 limited amount. So I -- I just, I don't see the
5 urgency in the fact that -- and I understand that she
6 didn't want to waste, you know, city money, but this --
7 I think it's negligible really to -- to -- to the
8 amount of money as far as her having something that
9 will tied her over if she was that worried about
10 getting out into -- into the public.

11 And -- and they definitely could have -- a
12 revision could have waited and come back after
13 discussion happened and proper procedures were
14 followed.

15 CHAIR FOLEY: I kind of think that she did
16 whatever all the other city councilmembers were doing
17 when they wanted to get something on the agenda and it
18 didn't -- and the Sunshine -- they couldn't meet the
19 required Sunshine, so they would get two people
20 together, say it was urgent and put it through. That's
21 what I think.

22 So I -- I think you have to look at, you
23 know, what are we going to say, you know, there were
24 violations of, and what are our recommendations going
25 to be.

1 And, Gloria, I see that you're next.

2 MEMBER HUERTA: No. Dave is next.

3 CHAIR FOLEY: Oh, sorry, Dave.

4 MEMBER STAHOVICH: I'll tell you what, I -- I
5 will yield to Gloria, and then I will speak after her.

6 MEMBER NEWMAN: I think it's on purpose, Dave.

7 CHAIR FOLEY: I keep saying -- I keep saying
8 the last person, and Dave is right above that last
9 person.

10 I apologize, Dave.

11 MEMBER HUERTA: I'm just -- I know that
12 somebody tonight, I can't remember whom, or I'd have to
13 go back through my 15 pages of handwritten notes, made
14 the comment that this was the usual practice.

15 CHAIR FOLEY: Uh-huh.

16 MEMBER HUERTA: But I don't believe that we
17 can use that as a reason or an excuse for not -- for
18 any person -- any person's action. Just because
19 somebody else did it that way doesn't necessarily mean
20 that it's right.

21 And the fact that the public could not weigh
22 in on this item, that it -- it happened in the middle
23 of the day, it was an add on, the topic was not clear,
24 the documentation attached to the order was not clear;
25 that's where I have the greatest concern, and I believe

1 that's where the violation of -- of the ethics
2 ordinance really lies.

3 CHAIR FOLEY: Okay. Dave.

4 MEMBER STAHOVICH: Thank you. Now, I don't
5 recall hearing any specific testimony about any
6 specific issue where a specific councilmember or two
7 put a specific issue on the agenda. It was a general
8 discussion that, yeah, it happens. I -- you know, I --
9 I don't -- I didn't get any specifics. I did look,
10 like I said earlier, at the agenda and -- of -- of that
11 night. I know of two other issues, I think there's
12 three, but two of the issues, one of them required at
13 least five affirmative votes for resolution to -- for
14 an urgent matter to fix gas turbines for the energy
15 centers; and the other one had to do with emergency
16 housing.

17 So I understand that, you know, on this
18 agenda, there were some other items put on as an
19 urgency item. I don't know that I'd put business cards
20 in that same category. And that's just -- and that is
21 evidence that was introduced into this case. So I'm
22 not trying to bring in any new evidence or anything
23 that wasn't already discussed.

24 CHAIR FOLEY: I hear you.

25 Gloria.

1 MEMBER HUERTA: And -- and just to echo kind
2 of what Dave said, when you look at the City Council
3 memorandum on pages 7 and 8 of our packet, it indicates
4 there's no anticipated fiscal impact associated with
5 the recommended actions in this report. It would
6 imply, number one, that there was not going to be any
7 action taken where expenditures could be involved; that
8 when you read it, it really does make it sound like
9 they're going to talk about branding, and it's going to
10 be referred or go to other committees or city
11 departments to have input into that branding.

12 This is extremely misleading in the topic
13 that's prescribed, as well as the fiscal impact.
14 Because when you do go outside to a union, now,
15 Mr. Zelinka -- Zelinka did mention that he told
16 Ms. Plascencia, in a -- an email or meeting, that there
17 was an increase associated in cost, or maybe it was the
18 city attorney that told Mr. Zelinka, that there was an
19 increased cost when you do this, when you go out for
20 union labor.

21 And so this is extremely misleading in
22 several ways.

23 CHAIR FOLEY: Okay. So if there's no more
24 discussion, I think everybody is just repeating the
25 same thing, can we get a motion, please? Okay. Is

1 there more discussion? We've got all this silence
2 here.

3 Dave, you're pretty good with motion. Do you
4 have a motion that you could put forward?

5 MEMBER STAHOVICH: Actually, based on what
6 Gloria had read earlier about the specific actions that
7 were taken, I agree with what she said earlier.

8 Gloria, could I trouble you for repeating
9 what you said earlier? I'd be happy to second the
10 motion. I think you were right on citing the specific
11 causes.

12 CHAIR FOLEY: But not the value, because we
13 have to look at prohibited conduct, not the --

14 MEMBER STAHOVICH: Well, I understand that.

15 CHAIR FOLEY: Yeah.

16 MEMBER STAHOVICH: So, Gloria, would you like
17 to do that or do you want to take a chance, a shot at
18 it? I -- I think you did a good --

19 MEMBER HUERTA: I --

20 MEMBER STAHOVICH: -- job.

21 MEMBER HUERTA: I can try.

22 MEMBER STAHOVICH: Okay.

23 MEMBER HUERTA: It's been a while, and I'm not
24 as young as I used to be, so I may not remember it all.

25 CHAIR FOLEY: I don't know if there's anybody

1 on here that's as young as they used to be. So --

2 MEMBER HUERTA: I do believe that there was a
3 violation of the ethics ordinance. And I'm -- I'm
4 looking through my packet again to find that ordinance,
5 which is back towards the back. Because I've already
6 shut it --

7 CHAIR FOLEY: Well, go to page 3 for what the
8 violations are. And then the definitions, I've got the
9 definitions here. Okay.

10 MEMBER HUERTA: So I do believe that there was
11 a violation of -- gosh, this is hard.

12 CHAIR FOLEY: Well, it really might be M.
13 I've got the local law. A violation, you know --

14 MEMBER HUERTA: Well, I was looking at page 3.

15 CHAIR FOLEY: -- (indiscernible).

16 MEMBER HUERTA: I'm sorry. Let me go back to
17 the actual ordinance.

18 CHAIR FOLEY: Yeah. Look at M.

19 MS. NICOL: The actual codes starts, is on
20 page 165 is where the prohibited conduct starts.

21 MEMBER HUERTA: Okay.

22 CHAIR FOLEY: Thank you.

23 MEMBER HUERTA: That's what I couldn't find,
24 thank you very much.

25 CHAIR FOLEY: Thank you, Colleen. Saved us

1 again.

2 Okay. There it is.

3 MEMBER HUERTA: I -- I don't see that M on
4 page 167 is applicable, Freya.

5 CHAIR FOLEY: Well, it's local law, and an
6 ordinance is local law; isn't it? And so if they
7 violated -- if they find --

8 MEMBER HUERTA: Oh, yes, yes.

9 CHAIR FOLEY: (Indiscernible).

10 MEMBER HUERTA: Thank you for reminding me.

11 CHAIR FOLEY: So if the local Sunshine law was
12 violated in the ordinance, then that would be local law
13 that was violated.

14 MEMBER HUERTA: Thank you.

15 Yes, I do believe that we found that there
16 was documentation of a violation of the Ethics
17 Ordinance Section 2.78.060, Prohibited Conduct, Section
18 M.

19 CHAIR FOLEY: Let's -- let's see, are you
20 getting this for us, Eva? Because you have to write
21 this up and give us --

22 MEMBER HUERTA: Oh, so I -- I guess I have to
23 make a motion though. I -- I move --

24 CHAIR FOLEY: Yes.

25 MEMBER HUERTA: -- that we --

1 CHAIR FOLEY: Okay. Say it so that Eva can
2 get it, because she has to send, I think the motion --
3 write the motion, the final motion up for it.

4 Isn't that right, Brandon? Brandon?

5 MR. MERCER: Yes. I -- I -- I think you need
6 -- you just don't find a violation -- findings of a
7 violation. I think you need to find some --

8 CHAIR FOLEY: Right.

9 MR. MERCER: -- findings of fact also.

10 MEMBER HUERTA: Okay.

11 MR. MERCER: I mean, you can do it either --
12 two different ways. I mean, you can -- you can have a
13 motion to see if there was a violation and see if that
14 passes and then have findings of fact afterwards.

15 Usually, I think, it goes the other way around. You
16 have findings of fact that everybody agrees to. And --

17 CHAIR FOLEY: I think --

18 MR. MERCER: -- then you go through the --

19 CHAIR FOLEY: -- (indiscernible).

20 MR. MERCER: -- charges. And -- and -- and
21 that's all up to you.

22 CHAIR FOLEY: Right.

23 MR. MERCER: But I think you need to create a
24 clear record --

25 CHAIR FOLEY: Uh-huh.

1 MR. MERCER: -- in case there's an appeal so
2 that the City Council understands exactly what
3 happened, what the findings were, and so that due
4 process is served.

5 CHAIR FOLEY: Okay. Dave.

6 MEMBER STAHOVICH: Okay. For the -- as -- as
7 far as the facts go, I would -- I would say that the
8 fact is that the Sunshine Ordinance was knowingly
9 violated by circumventing the 12-day waiting period
10 knowingly. The fact that it was discussed at a -- at
11 the prior council meeting to come at a --

12 CHAIR FOLEY: (Indiscernible) --

13 MEMBER STAHOVICH: -- later date. The fact --

14 CHAIR FOLEY: (Indiscernible).

15 MEMBER STAHOVICH: -- that knowingly the
16 ordinance was looked at to find out how to circumvent
17 it. The failure to fully and clearly disclose on the
18 agenda, the item, as well as the fact that the report,
19 itself, was not clearly articulating the proposed
20 action that occurred. And all of those -- all those
21 facts, I believe, support that there was a violation of
22 the Sunshine Ordinance.

23 CHAIR FOLEY: Okay. Did Colleen or Eva get
24 any of that?

25 MEMBER STAHOVICH: Colleen is a witness. She

1 can't get it.

2 CHAIR FOLEY: She -- you never know, she could
3 do the clerk job. Don't tell anybody.

4 Do we have that in writing?

5 MS. NICOL: We have the -- the -- I have the
6 notes, and we also have the video to get the --

7 CHAIR FOLEY: Oh, go back.

8 MS. NICOL: -- details of the motion.

9 CHAIR FOLEY: Okay.

10 MS. NICOL: So it's --

11 CHAIR FOLEY: Okay.

12 MS. NICOL: -- documented.

13 CHAIR FOLEY: Okay, okay, all right. That was
14 -- that was a good -- a good finding of fact there,
15 Dave. That was very good.

16 MEMBER HUERTA: All right. Do we need to
17 vote on the facts? Because if we do --

18 CHAIR FOLEY: We do.

19 MEMBER HUERTA: -- I second.

20 CHAIR FOLEY: We do.

21 MEMBER HUERTA: I second the statement --

22 CHAIR FOLEY: Just a --

23 MEMBER HUERTA: -- facts.

24 CHAIR FOLEY: -- second. I just want to see,
25 before we vote on anything, do we want to -- well,

1 let's vote on this, and then I'll ask you my question.

2 So, Eva, can you do a roll call?

3 Oh, who has the motion -- that was a motion;
4 was it, Dave.

5 MEMBER STAHOVICH: Yes.

6 CHAIR FOLEY: Okay. I second the motion.

7 MS. ARSEO: Okay. Chair -- Chair Foley.

8 CHAIR FOLEY: Yeah.

9 MS. ARSEO: Member Huerta.

10 MEMBER HUERTA: Yes.

11 MS. ARSEO: Member Keen.

12 CHAIR FOLEY: We didn't hear you, Taylor.

13 MEMBER KEEN: Sorry, mute. Yes.

14 MS. ARSEO: Thank you.

15 Member Newman.

16 MEMBER NEWMAN: Yes.

17 MS. ARSEO: Member Stahovich.

18 MEMBER STAHOVICH: Yes.

19 MS. ARSEO: Motion passes unanimously.

20 CHAIR FOLEY: Okay, okay. Now, I think we can
21 get into how -- whether it was a violation of M, local
22 -- local law or ordinance. The other thing that I
23 would like us to think about addressing, as well,
24 because throughout this whole discussion, and I know
25 the mayor had suggested that maybe it go to

1 Governmental Affairs or the Board of Ethics, and I
2 think we've talked about -- you know, I think they've
3 said other things should go to the Board of Ethics, and
4 somehow they didn't get to it. We've talked about
5 setting up a pathway, you know, to make that happen,
6 but I'm wondering if within all of this, we should make
7 a recommendation to have the matter come back to the
8 Board of Ethics for discussion. I don't know.

9 MEMBER HUERTA: Freya, I would like to act on
10 our second motion, and then --

11 CHAIR FOLEY: Go to that, okay.

12 MEMBER HUERTA: But I don't really see -- the
13 things that were recommended to come to us, I don't see
14 as our purview. When you read what the role and
15 function of is of the ethics --

16 CHAIR FOLEY: Yeah.

17 MEMBER HUERTA: -- board, that's not part of
18 our purview unless they change the ordinance or unless
19 our -- our board, in a meeting, decides that to
20 recommend and vote for that. That's --

21 CHAIR FOLEY: Okay.

22 MEMBER HUERTA: That's how I see it.

23 CHAIR FOLEY: Okay. So --

24 MEMBER HUERTA: So I would like to make a
25 motion that we did find that prohibited conduct in

1 section 2.78.060M was -- did occur.

2 MEMBER KEEN: I second that.

3 CHAIR FOLEY: Okay. Eva.

4 MS. ARSEO: Yes, Madam Chair.

5 MEMBER STAHOVICH: Further discussion?

6 MEMBER NEWMAN: I think Dave -- Dave wanted
7 to --

8 CHAIR FOLEY: Oh, wait. Further discussion.
9 Is there any discussion?

10 MEMBER STAHOVICH: Yes.

11 CHAIR FOLEY: Yes, Dave.

12 MEMBER STAHOVICH: I actually -- I -- I
13 actually have a question before we vote on this second
14 part of the motion --

15 CHAIR FOLEY: Okay.

16 MEMBER STAHOVICH: -- for -- for Brandon.

17 CHAIR FOLEY: Brandon.

18 MR. MERCER: Yes.

19 MEMBER STAHOVICH: I'm -- I'm not going to ask
20 you your legal opinion on what we're doing, per se, but
21 I -- I am asking in general whether there are enough
22 facts provided, not whether you agree with the facts.

23 MR. MERCER: Yeah, I believe there are enough
24 facts provided. I also -- again so the record is
25 clear, and -- and I understand what the motion is now,

1 but there were numerous -- there were five violations
2 that Mr. Hunter outlined. You may want to have a
3 vote --

4 CHAIR FOLEY: On each.

5 MR. MERCER: -- on each violation.

6 CHAIR FOLEY: Right.

7 MR. MERCER: Just to make it clean so the
8 record is clean that you addressed everything that was
9 in the --

10 CHAIR FOLEY: Yeah.

11 MR. MERCER: -- complaint.

12 CHAIR FOLEY: I --

13 MR. MERCER: You know, I'm not going to be
14 involved in your decision -- you know, sway your
15 decisions --

16 CHAIR FOLEY: No.

17 MR. MERCER: -- at all. I --

18 CHAIR FOLEY: No, I agree.

19 MR. MERCER: -- just want a --

20 CHAIR FOLEY: I was going to --

21 MR. MERCER: -- clean record.

22 CHAIR FOLEY: -- suggest that. Yeah.

23 MEMBER STAHOVICH: I get it. That was the
24 next part of my -- my -- my discussion. And I agree,
25 we have to go down the list. I just wanted to open the

1 door with some facts and do an initial motion, and then
2 we have to go down the list. That's my opinion.

3 MEMBER HUERTA: Yeah.

4 MEMBER STAHOVICH: Thank you, Brandon. Sorry
5 to put you on the spot.

6 CHAIR FOLEY: (Indiscernible).

7 MEMBER HUERTA: Since M is the last item in
8 our ordinance on that section, I can withdraw my motion
9 so we can go in chronological -- or in order if you --

10 CHAIR FOLEY: No.

11 MEMBER HUERTA: -- wish.

12 CHAIR FOLEY: I think you can -- no. Put your
13 -- leave your motion there, and then we'll go through
14 all the rest of them.

15 MEMBER HUERTA: Okay. Then I'd like to call
16 the question on M.

17 CHAIR FOLEY: Okay. So didn't somebody second
18 -- did somebody second that?

19 MS. ARSEO: Member Keen did.

20 MEMBER KEEN: I -- I did.

21 CHAIR FOLEY: Okay. So now we need to have
22 the vote, Eva.

23 MS. ARSEO: Okay. Chair Foley.

24 CHAIR FOLEY: Yes.

25 MS. ARSEO: Member Huerta.

1 MEMBER HUERTA: Yes.

2 MS. ARSEO: Member Keen.

3 MEMBER KEEN: Yes.

4 MS. ARSEO: Member Newman.

5 MEMBER NEWMAN: Yes.

6 MS. ARSEO: Member Stahovich.

7 MEMBER STAHOVICH: Yes.

8 MS. ARSEO: Thank you. Pass -- motion passes
9 unanimately.

10 CHAIR FOLEY: Okay. So hey, Brandon, can you
11 come back again?

12 MR. MERCER: Yes.

13 CHAIR FOLEY: So now when we go down the rest
14 of them, do we make the -- an official statement that
15 says we did not find facts that supported, you know,
16 the -- a violation or prohibited, you know, prohibited
17 conduct for blah, blah, blah?

18 MR. MERCER: It -- it depends on what the
19 motion is. If there's no facts to support -- let's --
20 let's -- let's just say that the first one, use
21 official title or position as personal gain. It is not
22 alleged that there is a violation of that, but let's
23 say that was, it's -- it's up to you what the motion is
24 going to be. It could be --

25 CHAIR FOLEY: Well, I'm saying -- --

1 MR. MERCER: -- there's, here's the motion --

2 CHAIR FOLEY: -- (indiscernible).

3 MR. MERCER: -- and there are no facts to
4 support a violation.

5 CHAIR FOLEY: Well, basically --

6 MR. MERCER: It could be the opposite.

7 CHAIR FOLEY: The complainant -- the
8 complainant didn't present any facts related to that
9 one.

10 MR. MERCER: Yeah, I know. I'm just -- that's
11 clearly --

12 CHAIR FOLEY: Okay.

13 MR. MERCER: -- not a violation, so I'm using
14 that as an example, so I'm not --

15 CHAIR FOLEY: Okay.

16 MR. MERCER: -- trying to sway you on
17 anything.

18 CHAIR FOLEY: Oh.

19 MR. MERCER: Okay?

20 CHAIR FOLEY: Yeah.

21 MR. MERCER: I really -- that's not my job is
22 not to get involved --

23 CHAIR FOLEY: Oh.

24 MR. MERCER: -- in -- in decision-making.

25 CHAIR FOLEY: We just want your help.

1 MR. MERCER: Yes. And so just for the sake of
2 argument, if that was a violation -- was alleged to be
3 a violation, it's up to you how to handle that. You
4 could have --

5 CHAIR FOLEY: Okay.

6 MR. MERCER: -- have a motion that says
7 there's no facts to support a violation of this and
8 then it gets seconded and then you vote on it, or you
9 could have the opposite -- opposite motion that there
10 are facts.

11 CHAIR FOLEY: Okay. So can we --

12 MR. MERCER: You can also make --

13 CHAIR FOLEY: -- (indiscernible) --

14 MR. MERCER: -- core findings of facts.

15 CHAIR FOLEY: -- coming together in which that
16 we didn't find any facts, or does each one have to be
17 done singularly?

18 MR. MERCER: I think you can do it either way.
19 I just think it's a little more clearer if you do
20 each --

21 CHAIR FOLEY: Okay.

22 MR. MERCER: -- one individually.

23 CHAIR FOLEY: Okay, okay. Thank you, Brandon.

24 Okay. So can we have discussion on C, use of
25 city resources, or can someone make a motion that there

1 were no facts to support C, use of city resources for
2 non-city purposes?

3 MEMBER HUERTA: Don't lead the commit -- don't
4 lead the board.

5 CHAIR FOLEY: What?

6 MEMBER HUERTA: But I'll make the motion. I
7 said, don't lead the board. Just ask for a motion.
8 Don't tell us what the motion should say, but I will
9 make the same motion. I don't believe there were any
10 facts to support the use of city resources for non-city
11 purposes as the City Council, no matter how it came to
12 their attention, did vote to authorize the -- the use
13 of non-union bugs.

14 CHAIR FOLEY: Okay. So --

15 MEMBER HUERTA: I believe there is no
16 violation.

17 CHAIR FOLEY: -- is there a second?

18 MEMBER STAHOVICH: I'll second that.

19 CHAIR FOLEY: Can you take a vote, Eva?

20 MS. ARSEO: Yes. Member Foley.

21 CHAIR FOLEY: Yeah.

22 MS. ARSEO: Member Huerta.

23 MEMBER HUERTA: Yes.

24 MS. ARSEO: Member Keen.

25 MEMBER KEEN: Yes.

1 MS. ARSEO: Member Newman.

2 MEMBER NEWMAN: Yes.

3 MS. ARSEO: Member Stahovich.

4 MEMBER STAHOVICH: Yes.

5 MS. ARSEO: Motion passes unanimously.

6 CHAIR FOLEY: So the next one is D, advocacy
7 of private interest of third parties in certain
8 circumstances.

9 MEMBER NEWMAN: I'll make the motion.

10 CHAIR FOLEY: Okay. Jessica, go ahead.

11 MEMBER NEWMAN: I --

12 CHAIR FOLEY: I can't help you because Gloria
13 accused me of leading.

14 MEMBER NEWMAN: I -- I would like to make a
15 motion that there was advocacy of private interests or
16 third parties in certain circumstances.

17 CHAIR FOLEY: Okay. And what was the -- what
18 are the facts that support that?

19 MEMBER NEWMAN: The evidence as presented.

20 CHAIR FOLEY: No. You have to have the facts.
21 Like, did she go and try to get bigger wages for union
22 members. Did she, I don't know, any sorts of things
23 like that, those would be evidence suggesting advocacy
24 of private interest of third party.

25 MEMBER KEEN: The union bug, itself, is

1 advocacy of a third party because the union doesn't
2 specifically support the city.

3 CHAIR FOLEY: I believe the -- the city
4 attorney said that wasn't the case when he was asked
5 about that specifically. He was asked specifically if
6 it meant that.

7 Dave.

8 MEMBER STAHOVICH: I did not hear the city
9 attorney say that. I heard the city attorney say that
10 the union bug is not partisan. He did not say -- he
11 did not discuss whether or not it was a third-party
12 interest.

13 CHAIR FOLEY: He did discuss that at an
14 earlier point. That's what I heard.

15 MEMBER KEEN: He said he thought. He never
16 gave a definitive statement that said it --

17 CHAIR FOLEY: Okay.

18 MEMBER KEEN: -- wasn't.

19 CHAIR FOLEY: All right.

20 MEMBER KEEN: He -- he gave his opinion on it.
21 He never gave a definitive fact.

22 CHAIR FOLEY: Well, he's the legal opinion.

23 MEMBER KEEN: That's pretty vague though. I
24 think it is versus it is, is -- is awfully vague.

25 CHAIR FOLEY: Okay.

1 MEMBER NEWMAN: I agree. I think there's a
2 big difference between -- between I think it is and
3 this is what it is.

4 CHAIR FOLEY: Uh-huh.

5 MEMBER HUERTA: I'm going to second --

6 CHAIR FOLEY: I think --

7 MEMBER HUERTA: -- Jessica's motion.

8 CHAIR FOLEY: Okay. Do we want to though play
9 what -- because we have to have fact before you second
10 it. Do you remember how we did the first one? We have
11 to --

12 MEMBER STAHOVICH: I think we just established
13 facts.

14 CHAIR FOLEY: Okay. So what are the facts?
15 We have to vote on the facts. What are the facts?

16 MEMBER KEEN: We just discussed them, Freya.

17 CHAIR FOLEY: No. What is -- you have to list
18 them out.

19 MEMBER KEEN: We did.

20 CHAIR FOLEY: We have to do them again. Who
21 can list out the facts?

22 Eva, did you get the facts?

23 MS. ARSEO: I -- I did not get them in a list.
24 I was waiting for Member Newman to make the motion of
25 facts.

1 MEMBER STAHOVICH: Jessica, if you could just
2 repeat what you said, just -- just recite the same
3 facts that you previously did, that would probably be
4 fine.

5 MEMBER HUERTA: Well, point of order, we would
6 have to pull our motion off the floor if we are going
7 to vote on the facts before we vote on the motion on
8 the -- the violation.

9 MEMBER STAHOVICH: Yeah, we can --

10 MEMBER HUERTA: So I'm willing --

11 MEMBER STAHOVICH: -- do it either way.

12 MEMBER HUERTA: I'm willing to withdraw my --
13 my second so that we can do that.

14 CHAIR FOLEY: Okay. Let's get the facts.

15 MEMBER HUERTA: Well, does the maker of the
16 motion --

17 MEMBER NEWMAN: I think --

18 MEMBER HUERTA: -- withdraw her vote?

19 MEMBER NEWMAN: Okay.

20 CHAIR FOLEY: She didn't have to be the only
21 one that --

22 Oh, yes, are you going to withdraw, Jessica,
23 or -- you can add it later?

24 MEMBER NEWMAN: No. I'll -- I'll give it a
25 try. So I make a motion that there was a violation of

1 advocacy for private interests for third parties in
2 circumstances prohibited and that that was stated, in
3 fact, through evidence by the attorney -- city attorney
4 providing (indiscernible), he didn't feel it was
5 prohibited, but that was not an actual fact.

6 CHAIR FOLEY: No. You have to demonstrate, I
7 believe, that this one that there was an advocacy of
8 private interest of third party. So what -- I think
9 what you're trying say, that you believe that the
10 advocacy for putting a union bug on the back of the
11 business card was advocating for the private interest
12 of a third party. Is that what you're saying?

13 MEMBER NEWMAN: Yes. Thank you.

14 MEMBER KEEN: I second that motion.

15 CHAIR FOLEY: Eva, do you have that?

16 MS. ARSEO: Yes.

17 CHAIR FOLEY: Okay.

18 MS. ARSEO: Okay, okay. So the vote.

19 CHAIR FOLEY: Is there any other discussion?
20 Dave?

21 MEMBER STAHOVICH: No, that's from before this
22 time.

23 CHAIR FOLEY: Okay. But at least I got you.
24 Okay. Let's have a vote.

25 MS. ARSEO: Yes. Chair Foley.

1 CHAIR FOLEY: No.

2 MS. ARSEO: Member Huerta.

3 MEMBER HUERTA: Yes.

4 MS. ARSEO: Member Keen.

5 MEMBER KEEN: Yes.

6 MS. ARSEO: Member Newman.

7 MEMBER NEWMAN: Yes.

8 MS. ARSEO: Member Stahovich.

9 MEMBER STAHOVICH: Yes.

10 MS. ARSEO: The motion passes 4 to 1 with
11 Chair Foley dissenting.

12 CHAIR FOLEY: Okay. Now we have E,
13 endorsement for compensation.

14 MEMBER HUERTA: Can we clarify that we took
15 care of both the finding of fact and that there was a
16 violation in one motion instead of doing two separate?
17 Is that what we just did?

18 CHAIR FOLEY: Yeah.

19 Okay. Can you please note that for the
20 record, Eva, that the finding of fact -- the fact and
21 the motion -- the motion were contained in one -- were
22 contained in one motion?

23 MS. ARSEO: Yes, I will.

24 CHAIR FOLEY: Thank you. All right. Thank
25 you.

1 Okay. E, endorsements for compensation. I
2 don't think -- we don't see any facts for that. Is
3 there any discussion?

4 Dave, is that you again, or is that just from
5 the last time?

6 MEMBER STAHOVICH: That's the last time.

7 CHAIR FOLEY: He is the last one on there. I
8 just want to make sure I get you.

9 Okay. Taylor.

10 MEMBER KEEN: I -- I saw what Jason presented
11 as far as campaign contributions, but that is in the
12 past. There's no way to verify whether or not there is
13 any payment happening currently as a result of that
14 union bug going on the business card, so I don't
15 necessarily see any evidence supporting currently that
16 there is compensation happening.

17 CHAIR FOLEY: I don't think there's any nexus
18 between the political contribution and what's going on
19 here, but there was no evidence presented that
20 connected -- that connected -- there was no
21 (indiscernible).

22 Dave.

23 MEMBER KEEN: I don't -- I don't feel like
24 it's --

25 CHAIR FOLEY: I --

1 MEMBER KEEN: -- big stretch to assume it, but
2 we can't assume that that was the reason for the
3 request. We have no actual verification that that's
4 the case. It isn't a huge leap to make to that, but
5 it's -- there's nothing there saying that it's fact.

6 CHAIR FOLEY: Yeah, we don't do those leaps.
7 We have to have facts.

8 Dave.

9 MEMBER STAHOVICH: You know, again, as an
10 elected official, they do get campaign donations, and
11 that is part of the game, that's part of the rules.

12 CHAIR FOLEY: Right.

13 MEMBER STAHOVICH: I -- I look at that section
14 of the ordinance to mean more so personal gain --

15 CHAIR FOLEY: Yeah.

16 MEMBER STAHOVICH: -- outside, not getting
17 yourself into the job. I -- I see no evidence that,
18 you know, that there was any personal gain outside of
19 the -- the city. And I -- I couldn't support a
20 violation of that -- that section.

21 MEMBER HUERTA: Is that a second?

22 CHAIR FOLEY: All right. Well, let -- make
23 the motion, Dave. Can somebody --

24 MEMBER STAHOVICH: Yeah. My -- my motion is,
25 I don't believe there's grounds to -- there is no

1 grounds to support item, I guess, it's --

2 CHAIR FOLEY: E.

3 MEMBER STAHOVICH: -- yes, endorsements for
4 compensation prohibited.

5 CHAIR FOLEY: Yeah.

6 MEMBER NEWMAN: I second.

7 CHAIR FOLEY: Okay. Can we have a vote, Eva?

8 MS. ARSEO: I missed who seconded that. I'm
9 sorry.

10 MEMBER NEWMAN: Jessica Newman.

11 MS. ARSEO: Thank you.

12 Okay. So for the vote, Chair Foley, how do
13 you vote?

14 CHAIR FOLEY: Yes.

15 MS. ARSEO: Member Huerta.

16 MEMBER HUERTA: Yes.

17 MS. ARSEO: Member Keen.

18 MEMBER KEEN: Yes.

19 MS. ARSEO: Member Newman.

20 MEMBER NEWMAN: Yes.

21 MS. ARSEO: Member Stahovich.

22 MEMBER STAHOVICH: Yes.

23 MS. ARSEO: Thank you. Motion passes
24 unanimously.

25 CHAIR FOLEY: Okay. And our last one is

1 violation of Government Code Section 8700, conflict.

2 MEMBER NEWMAN: Oh, that's -- that's the
3 second to last, Chairwoman Foley. The -- the very last
4 one is checked off as well.

5 CHAIR FOLEY: Well, we already voted.

6 MEMBER HUERTA: We did that first.

7 MEMBER NEWMAN: Oh, I -- I apologize. You're
8 right, we did.

9 CHAIR FOLEY: I --

10 MEMBER NEWMAN: We did that. I forgot we went
11 out of order.

12 CHAIR FOLEY: I appreciate you attempting to
13 help me, I really do.

14 And so I think, Dave, you don't really want
15 to speak now, Gloria does.

16 MEMBER HUERTA: Yes. I think this is very
17 similar to the comments that Dave and Taylor made on
18 the prior motion.

19 CHAIR FOLEY: Right.

20 MEMBER HUERTA: I don't find that there was a
21 violation of government code. I think there is some
22 inferences there and maybe there's a hint, but there's
23 no true evidence, and so I would recommend or move that
24 we find there's no violation of this portion of our
25 ordinance.

1 CHAIR FOLEY: Okay.

2 MEMBER STAHOVICH: I'll second that.

3 CHAIR FOLEY: Okay. And is there any
4 discussion?

5 Okay. Can we have a vote on violation of
6 Government Code Section 8700 A -- no, E -- F -- F?

7 MS. ARSEO: Yes. Member -- Chair Foley, how
8 do you vote? Chair Foley.

9 CHAIR FOLEY: Yes. You didn't hear me?

10 MS. ARSEO: Sorry.

11 Member Huerta.

12 MEMBER HUERTA: Yes.

13 MS. ARSEO: Member Keen.

14 MEMBER KEEN: Yes.

15 MS. ARSEO: Member Newman.

16 MEMBER NEWMAN: Yes.

17 MS. ARSEO: Member Stahovich.

18 MEMBER STAHOVICH: Yes.

19 MS. ARSEO: Motion passes unanimously.

20 CHAIR FOLEY: Okay. So I believe that your
21 office prepares that or -- I don't what it is.

22 Brandon, can you come help us?

23 And, Colleen, can you help us?

24 The city clerk's office prepares our motion
25 to bring it back to the board for a full vote? Is that

1 what happens next?

2 MS. NICOL: That's correct. The city clerk's
3 office will prepare the final motion for your approval.
4 It will be on your next agenda. And only the five on
5 the panel will vote on it.

6 CHAIR FOLEY: Okay. And, Brandon --

7 MEMBER HUERTA: Can I ask you a question, when
8 you say, next agenda, you do not mean tomorrow?

9 MS. NICOL: I do not mean tomorrow because
10 it's not agendized for tomorrow.

11 MEMBER STAHOVICH: And it wouldn't -- it
12 wouldn't meet the Brown Act or the Sunshine Ordinance.

13 CHAIR FOLEY: We'd be getting ourselves into
14 trouble.

15 Brandon, can you talk about the appeal
16 process?

17 MR. MERCER: Yes. I -- I believe there are
18 two sections that are going to apply to your decision.
19 This is going to be found in RMC Section 2.78.090.

20 CHAIR FOLEY: Do you have a page?

21 MR. MERCER: Section A is going to -- to
22 apply.

23 CHAIR FOLEY: And, Ms. Plascencia, if you can
24 -- they're explaining how the -- the decision can be
25 appealed.

1 So what is the section, the page?

2 MR. MERCER: 2.78.090.

3 CHAIR FOLEY: What page?

4 MR. MERCER: Oh, what page? Well, I'm just
5 reading off my own copy of the --

6 CHAIR FOLEY: All right. So you, but you're
7 reading from -- you're reading from the Code of Ethics?

8 MR. MERCER: Yeah.

9 CHAIR FOLEY: Okay, all right. Just tell us.

10 MR. MERCER: It's going to be on page 171.

11 CHAIR FOLEY: Okay.

12 MR. MERCER: Section A, a decision by the
13 hearing panel finding a violation of the prohibited
14 conduct section of this chapter shall be auto-appealed
15 to the City Council. So you found two violations by
16 the councilwoman, and those will be automatically
17 appealed. The city clerk shall place the appeal on the
18 agenda of a regular meeting of the City Council within
19 30 business days of the hearing by the hearing panel
20 and shall notify all the parties in writing.

21 I also believe, because you also found that
22 there were not violations of multiple sections in the
23 complaint, I think there were three section --

24 CHAIR FOLEY: Yeah.

25 MR. MERCER: -- you found that there were not

1 violations of three --

2 CHAIR FOLEY: Right.

3 MR. MERCER: -- of the complaints, so a
4 decision by the hearing panel of the Board of Ethics
5 not finding a violation of prohibited conduct, this
6 chapter may be appealed to the City Council by either
7 party. The appeal may be taken by filing a written
8 notice of appeal with the city clerk within ten
9 business days following the date of the hearing by the
10 hearing panel.

11 So, Mr. Hunter, you -- you have some appeal
12 rights under 2.78.090B.

13 And, Councilwoman Plascencia, you have appeal
14 rights under subsection A. And, Ms. Plascencia --
15 Councilwoman Plascencia, your appeal rights are
16 automatic. So it shall be automatically appealed.

17 I just wanted to make everybody aware of the
18 appeal rights.

19 COUNCILWOMAN PLASCENCIA: Thank you.

20 CHAIR FOLEY: We appreciate that.

21 MR. MERCER: I -- I don't know if there's
22 anything else that needs to be addressed at this
23 moment.

24 CHAIR FOLEY: I -- I can't think of anything.

25 Gloria, Dave, can you think of anything we

1 need to do?

2 MEMBER STAHOVICH: I have a question for
3 Brandon.

4 MR. MERCER: Yes.

5 MEMBER STAHOVICH: Okay. The -- the appeal is
6 going to be set within 30 days of this hearing. Is it
7 as of today or after we make our final findings?

8 MR. MERCER: Well, it's -- it's business days.
9 So the way I read this appeal section right now -- I
10 think -- one second. The section is cut off just on
11 the top.

12 CHAIR FOLEY: (Indiscernible) somebody has a
13 fan in the background. It sounds like one of those
14 sounds from a science-fiction movie, you know.

15 MR. MERCER: There's 30 business days of the
16 hearing by the hearing panel.

17 MEMBER STAHOVICH: Okay. So we're going to
18 need to make sure that we schedule a meeting between
19 now and that time so we can adopt our findings.

20 MR. MERCER: Right.

21 MEMBER STAHOVICH: So that's a question for
22 Colleen then.

23 CHAIR FOLEY: Yeah.

24 MEMBER STAHOVICH: We need to make sure that
25 we schedule a meeting of the Code of Ethics between now

1 and that -- that time period. And actually, the
2 earliest, the better so everybody has an opportunity to
3 understand the findings that are adopted and move
4 forward with their, you know, with -- with the options
5 they have. And that -- that way we're going to give
6 everybody the -- the best opportunity to actually
7 respond for both parties.

8 MS. NICOL: Absolutely.

9 CHAIR FOLEY: Okay.

10 MS. NICOL: We're prepared to do that.

11 CHAIR FOLEY: Okay.

12 MEMBER STAHOVICH: Thank you.

13 MR. MERCER: And if we do it that first
14 meeting in -- in November, 30 business days, rather
15 than 30 calendar days, is probably going to go beyond
16 that date; but it -- it's up to the clerk's office and
17 you all if you want to do that a little earlier.

18 CHAIR FOLEY: Okay, okay. So does that
19 conclude our meeting? I'd like to thank everyone for
20 your help. And I'd like to thank you for being great
21 participants.

22 And, you know, for the complainant and
23 respondent -- respondent, I'd like to thank you for,
24 you know, maintaining your composure and listening
25 under some very difficult times. I appreciate that.

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

So thank you very much, everyone. And with
this, the meeting is concluded.

- - -

(Whereupon, the proceedings concluded)

- - -

1 STATE OF WASHINGTON)

2) SS:

3 COUNTY OF WHATCOM)

4

5

6

7

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

12 IN WITNESS WHEREOF, I do hereunto set my
13 hand at Blaine, Washington, this 4th day of October,
14 2020.

15

16

17

18

19

20

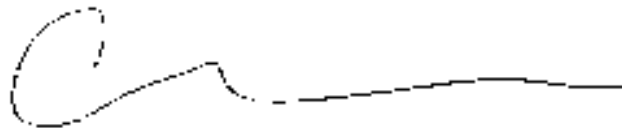
21

22

23

24

25



Christine Aiello