

In the Matter Of:

HUNTER vs PLASCENCIA COMPLAINT

HEARING

April 14, 2021



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TRANSCRIPT OF THE
CITY OF RIVERSIDE BOARD OF ETHICS HEARING PANEL
VIRTUAL MEETING
COMPLAINT: HUNTER v. PLASCENCIA
WEDNESDAY, APRIL 14, 2021
6:00 PM

Transcribed by:
Christine Aiello

Job No. J6975821

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BOARD OF ETHICS HEARING PANEL

Chair Taylor Keen
Member Champagne Ford
Member Tiffani Graham
Member Keith Nelson

OTHERS PRESENT ON BEHALF OF THE BOARD

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

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None offered.

E X H I B I T S

Description

Admitted

None offered.

1 P R O C E E D I N G S

2 (On the record)

3 CHAIR KEEN: To go -- let us know when we're
4 live. All right. Evening. We are calling to order
5 this hearing of the Board of Ethics in regard to
6 Mr. Hunter's complaint against Ms. Plascencia. First
7 order on our agenda is to take oral communications from
8 the public. So if we could get the phone number up so
9 people have an opportunity to call in. Okay. We do
10 have callers on the line. So if we'd like to take the
11 first caller.

12 MEMBER NELSON: I also have some that were
13 emailed to me. Did you get those copies, Taylor?

14 CHAIR KEEN: We did. I have, it looks like,
15 three that were emailed in. Okay, perfect. If we have
16 callers on the line now, we can take those first, and
17 then read these written communications into the record
18 after the call -- callers on the line are completed.
19 There's usually a little bit of a --

20 MS. BAKER: Yes, this is Linda Baker. I'm in
21 Ward 6. I've been here for 44 years. I just want to
22 speak in regard to the union bug. I do -- I don't
23 believe that any city councilman should have a union
24 bug. We -- we should support everybody out there, not
25 just the unions. And I also feel that when this was

1 appealed, that it wasn't fair, because I don't feel
2 that they should have to go through the whole thing all
3 over again.

4 So anyway, that's -- that's how I feel about
5 it. And thank you very much. Bye-bye.

6 CHAIR KEEN: Thank you for your comment.

7 We do have one more caller on the line. It
8 takes a moment to cue. We'll have the next caller in a
9 minute. All right. It doesn't sound like the caller
10 is responding.

11 MS. MCKEITH: Hi, good evening. This is
12 Malissa McKeith, Ward 3. I did submit public comment
13 and also comments with respect to the specific
14 complaint this evening. And I'll call in again to
15 speak on that issue, but I am calling in my capacity as
16 the vice chair of the Charter Commission to let you
17 know, and other people in the public listening, that
18 one of the issues we are considering is the
19 consolidation of complaints and investigations into one
20 chief accountability officer or inspector general to
21 oversee investigations and complaints.

22 I have watched this committee over the past
23 six months or so. And, unfortunately, because you do
24 not have judicial training, there has not been clear
25 training about evidentiary standards and procedures,

1 you have had to grapple with difficult issues in the
2 public eye with mixed results. And in the absence of
3 clear predictability, unfortunately, this process can
4 and has been used to some extent, and by some people,
5 as a political cudgel. And, unfortunately, that
6 undermines the entire purpose of the ethics code.

7 And I also believe what many of the people
8 who promote the ethics code wanted to see, and that's
9 having some independent process by which, not only city
10 councilmembers and appointees are held to a particular
11 standard, but also our staff, and particularly senior
12 staff in the city attorney's office and the city
13 manager's office. And this particular process falls
14 far short of doing that.

15 So on April 21st and May 19th, the Charter
16 Commission will start holding discussions with the
17 public on this issue and drafting a charter amendment
18 that would, in fact, create a chief accountability
19 officer position or an inspector general, who would
20 oversee, among other things, this ethics process so
21 that it was professionalized for some extent. That's
22 no indictment on the particular individuals on this
23 commission, it's just the nature of how this has
24 evolved through our codes. And I think that it has not
25 actually accomplished what had been intended.

1 So thank you, and I will call in later when
2 you're considering the remand of the Gaby Plascencia
3 union bug issue. Thank you.

4 CHAIR KEEN: Thank you, Malissa.

5 We do have another caller on the line.

6 MR. WOHLGEMUTH: Thank you. Good evening,
7 committee. My name is Ken Wohlgemuth, Ward 1. I
8 strongly oppose the union bug or any other partisan
9 label on what's supposed to be city stationery or
10 business cards or anything else that is not part of the
11 city establishment, itself. So all this
12 extracurricular activity needs to be separate and not
13 on public stationery that the public pays for. Thank
14 you.

15 CHAIR KEEN: Thank you for your comment.

16 There are no more callers on the line. We do
17 have the comments, public comments that were sent in as
18 written. One of those is from Malissa McKeith, and she
19 verbally gave almost verbatim what was in her written
20 statement. I'm going to go ahead and read in this
21 comment from Kevin Dawson though. He has not called
22 in. So this is in regard to hearing Code of Ethics
23 complaint filed by Jason Hunter against Councilwoman
24 Plascencia. Commentator's name was Kevin Dawson.

25 I think the declaration of an emergency, so

1 as to bypass the Sunshine Ordinance, was an abuse and
2 improper. If a councilperson needed business cards,
3 \$25 would have quickly bought enough cards to last
4 until such time proper city council notice would have
5 been given and the issue discussed. While I support
6 unions in general, I disagree with the use of the union
7 bug on official city literature or business cards.
8 Having the union bug on a city business card would
9 indicate support of that union with whom the city is in
10 a contractual relationship with. Who else might want
11 their logo on city business cards, and what are the
12 ethical or legal ramifications?

13 I think the best city practice should be no
14 non-city logos on any city or city council cards,
15 letterheads, or any other official literature. I think
16 it would be ethical for a city council to participate
17 in discussions or votes on those unions the bugs
18 represent. Would this be a violation of state
19 government code 1090? I would like government code
20 1090 explained to the ethics panel as to the city
21 council. I would like the city attorney also to
22 address the issue of just who the city attorney
23 represents in questions of 1090.

24 I've read a case involving a board member for
25 San Diego Harbor District. An issue came before that

1 board in which this member thought he might have a
2 conflict. He asked the district -- the district's
3 attorney, who advised him there was no conflict, so the
4 board member participated in the discussing and vote.
5 The meeting was reported in the newspaper and came to
6 the attention of the district attorney, who brought
7 1090 charges against the board member.

8 The member eventually negotiated a plea deal,
9 avoiding jail time in exchange for paying fines,
10 community service, and being banned from public office
11 for life. The board member then sued the Harbor
12 attorney malpractice, but the case was dismissed. The
13 Harbor attorney is the attorney for the Harbor District
14 and not for the individual board members. I think this
15 is an important bit of information. Most elected
16 officials and maybe some city attorneys would be aware.

17 End comment.

18 Are there any other callers on the line?

19 Okay. It looks like there are no more callers.

20 MEMBER NELSON: I -- I -- excuse me. I see
21 Mr. Hunter with his hand up. I'm not sure if he was to
22 make comment.

23 CHAIR KEEN: I see that.

24 Mr. Hunter, you have your hand raised on the
25 meeting.

1 MR. HUNTER: Yes, I'd like --

2 CHAIR KEEN: Was that intentional?

3 MR. HUNTER: I'd like to make a really brief
4 public comment, if I could.

5 CHAIR KEEN: I know we discussed this in the
6 last hearing. Are we -- it looks like, no, we -- as we
7 determined in the last hearing, the -- because you are
8 the complainant, your comment is during the entire
9 process, and you're not able to make public comment in
10 addition to that. I'm -- I'm sorry for that,
11 Mr. Hunter.

12 At this point, we have no more callers or
13 written public comments, so we're going to close public
14 comment and move on to the actual hearing, so our Code
15 of Ethics complaint that was filed by Mr. Hunter
16 against Councilwoman Plascencia. What we want to first
17 do before we move directly into opening statements is
18 give both parties five minutes to address any technical
19 or procedural issues. Since this is tech and sometimes
20 we have problems over teams, we're going to take a few
21 minutes and see if there are any issues that need to be
22 addressed now prior to the start of the hearing.

23 So, Mr. Hunter, do you have any procedural or
24 technical issues you -- you want addressed currently?

25 MR. HUNTER: Yeah, sure. I have three

1 actually. Number one is I'd just like to ask the clerk
2 if she was able to get my videos cued up for when I
3 start my presentation on the -- on the meeting that I
4 sent her an email about today.

5 CHAIR KEEN: We -- I received that via email
6 just before the meeting. Did the rest of the board
7 members receive that?

8 MEMBER FORD: Yeah, I noticed that Jason --

9 MEMBER NELSON: I received it and reviewed it.

10 MS. ARSEO: Chair Keen --

11 MEMBER FORD: Jason --

12 MS. ARSEO: -- this is the clerk's office. I
13 could answer that.

14 Yes, we forwarded that to the media team, and
15 they will have it cued up.

16 MR. HUNTER: Okay, perfect. And then second
17 would be -- and that was allowed at the prehearing, by
18 the way, to add that. So --

19 CHAIR KEEN: Uh-huh.

20 MR. HUNTER: -- the -- the second thing is, I
21 saw -- well, actually, there's four things, now that I
22 think about it. The second thing is, I saw a response
23 come across, it looked like an updated response from
24 Councilwoman Plascencia. I don't know how that's
25 allowed to be added into the evidence package. I -- I

1 wasn't -- you know, if -- if she was going to put
2 something into the evidence package, that would have
3 had to have been approved at the prehearing.
4 Everything that I've added to the evidence package was
5 approved at the prehearing.

6 I don't understand how somebody, the
7 respondent, can just add something willy-nilly after
8 the prehearing. I didn't get a chance to -- to modify
9 my complaint.

10 CHAIR KEEN: So part of the procedure is that
11 the respondent does have a period of time after the
12 prehearing to get her response to your complaint sent
13 in. And based on when that was sent to the hearing
14 from the -- or to the panel from the clerk, she did
15 meet all timelines per the process that's currently in
16 place to get that added --

17 MR. HUNTER: Well, I just --

18 CHAIR KEEN: -- into the packet prior to --

19 MR. HUNTER: I think --

20 CHAIR KEEN: -- today.

21 MR. HUNTER: I think that that's prejudicial
22 towards the complainant in the fact that I don't get to
23 -- you know, once it's remanded back to the panel, I
24 don't get to update my complaint. I have no
25 opportunity to do that, so I don't know how someone

1 gets to update their -- their -- their defense. They
2 were given the opportunity to -- to sort of say that
3 they may want to add that into the record at the
4 prehearing, and they -- and they chose not to. So I
5 just think it's -- it's -- it's a prejudicial process.
6 And I'll -- I'll -- I'll leave it there.

7 The -- the -- the third thing I wanted to add
8 was, you know, I did read, and I sent to the city
9 attorney's office, and I hope that everyone on the
10 panel got to see it, is that in the -- the city's
11 municipal code under chapter 2.80, it does say that a
12 hearing panel, once established, shall be the sole --
13 sole hearing panel -- body to conduct hearings and
14 render decisions on findings on the complaint for which
15 the panel was convened. So I -- once again, I find
16 this to be a -- really prejudicial process, whereby,
17 when it's remanded back from the council, the council
18 picks a -- you know, there's an entire new kind of
19 jury, which is what you guys are, entire new panel
20 picked.

21 It allows the council to keep remanding
22 things until they get the -- the desired results they
23 want. And they get to jury pick. And I think that's a
24 really bad process. It conflicts with how I read and
25 interpret the municipal code. I think that this --

1 that the Ethics Commission, as a body, should have
2 ruled on that and -- and not deferred to the city
3 attorney's office to -- to make a call on that.

4 Anyway, I just think that's a terrible
5 process. It needs to be reviewed. And it's -- it's in
6 -- it's -- it's in conflict with the municipal code, as
7 -- as I clearly read, because I don't get to update my
8 complaint. So this isn't a new complaint. This is an
9 old complaint that I made, I think, over a year ago
10 now, and so it should be the same hearing panel that we
11 had last time, because that would make this hearing go
12 much faster because everybody would be familiar with
13 the evidence. Okay. So that's my third thing.

14 And then lastly, at the prehearing panel, we
15 agreed that in -- in the evidence package would be the
16 witness statements from the last hearing on this,
17 right, so that we wouldn't have to call the witnesses
18 again and bring them in; but yet I don't see that in
19 our package. So where is it?

20 CHAIR KEEN: I do have that that was something
21 we voted on at the prehearing, and thank you for
22 bringing that to our attention, that you are correct,
23 it is not in the packet. We did get -- hopefully, all
24 of the panel is using the newest packet, the 265-page
25 one that came via mail just about two weeks ago. It is

1 different from the last packet. So hopefully, all of
2 you do have that. But you're correct, those pieces
3 that we did vote on are not in this packet. Is
4 everybody --

5 MEMBER FORD: Is it just -- is it just me or
6 Jason's frozen? It's completely frozen on my end. So
7 I don't know if he --

8 CHAIR KEEN: He's not --

9 MEMBER FORD: Is -- is he frozen to everybody
10 else?

11 CHAIR KEEN: No. Well, not to me.

12 MEMBER FORD: Okay, okay. I just wanted to
13 know if he was frozen for me (indiscernible).

14 CHAIR KEEN: For -- I guess the question goes
15 back to the city clerk or Brandon in regards to those
16 pieces not being in the packet.

17 MS. ARSEO: Chair Keen, this is the city
18 clerk's office, Eva. That is correct, I -- we did miss
19 including -- I -- I (indiscernible) we were supposed to
20 include the -- the transcript portion of -- of those
21 questions.

22 CHAIR KEEN: So I --

23 MS. ARSEO: And as far -- and as far as
24 Mr. Hunter's -- regarding Mrs. Plascencia's response,
25 it was the original response that she submitted timely

1 originally.

2 CHAIR KEEN: So we do have -- I see Mr. Hunter
3 shaking his head. We do have her original response in
4 the packet, and then there is the new response that she
5 did submit. And I definitely hear your concerns on
6 that, but her being able to, and we discussed this as
7 at the prehearing, Ms. Plascencia has the opportunity
8 to submit further evidence for the final packet prior
9 to the hearing within, I believe, it's 20 days after
10 that prehearing. The city attorney would have to
11 clarify on those dates, but that is within the confines
12 of the process.

13 Mr. Hunter -- you're muted, Mr. Hunter.

14 MR. HUNTER: If you don't mind, I have one
15 more question, and that is, you know, the -- the city
16 council, more or less, gave us a remand and gave their
17 reasons for the remand. Do I have to overcome both
18 Ms. Plascencia's defense and address the city council's
19 concerns as well or -- at this hearing?

20 CHAIR KEEN: We can -- I can follow that
21 question up with the city attorney Brandon, but yes, it
22 is all a part of the packet. We do have to respond to
23 the fact that the city council did overturn this upon
24 appeal. That is a large part of this particular
25 packet. In our de novo hearing, that is a part of the

1 actual hearing. It's a part of the evidence packet
2 that we are reviewing.

3 MR. HUNTER: Okay. So --

4 MEMBER NELSON: Okay. For the chair, I'd like
5 to -- first of all, you said that new evidence is
6 submitted 20 days from the prehearing. What day was
7 the prehearing?

8 CHAIR KEEN: It was -- I don't know if I have
9 that date handy. I've got --

10 MS. ARSEO: Chair Keen, December 3rd was the
11 prehearing, and 20 --

12 MEMBER NELSON: Okay. So what we said was
13 that 20 days from December 3rd, which would be
14 December 23rd, would be the last day to submit
15 evidence.

16 CHAIR KEEN: I believe it's once the -- is it,
17 Eva, please -- or, city clerk, please correct me if I'm
18 wrong, it's 20 days back from the date of the scheduled
19 hearing once it's scheduled; is that accurate, or am I
20 misunderstanding?

21 MS. ARSEO: I believe it's 20 -- oh, I have --
22 hold on a second.

23 MEMBER NELSON: Next, while they're looking
24 that up, since we're not prepared with the evidence
25 requested at the pretrial hearing, I'm not sure how we

1 can proceed today.

2 CHAIR KEEN: That was my question for city
3 attorney Brandon. I know we have -- I have reviewed,
4 I, personally as the chair, have reviewed all of that
5 evidence -- evidence, but it was not included in the
6 packet, so I cannot speak for the rest of you.

7 Brandon, if you're --

8 MEMBER NELSON: I'm --

9 CHAIR KEEN: -- able to answer that question.

10 MR. MERCER: Yeah, the -- the -- the municipal
11 code allows for a continuance prior to the hearing.

12 CHAIR KEEN: Uh-huh.

13 MR. MERCER: And you guys have already
14 convened the hearing.

15 CHAIR KEEN: Uh-huh.

16 MR. MERCER: It's being brought up today for
17 the first time. I understand it's not in the packet,
18 but I don't see authority for the panel to continue
19 this hearing.

20 CHAIR KEEN: So is what I'm hearing that we
21 should or shouldn't be continuing?

22 MR. MERCER: I -- I believe you should
23 continue the hearing.

24 CHAIR KEEN: Okay.

25 MEMBER NELSON: Okay. I'm going to

1 respectfully disagree with the city attorney. And I'm
2 going to make a comment, and I hope no one takes it
3 personally. I could walk into every court today and
4 find 50 percent of the attorneys that are on the wrong
5 side. I do not see how we can proceed when we told one
6 of the hearing panelists -- one of the -- one of the
7 parties of this hearing that we would have evidence
8 here and readily available that is germane to his case,
9 and then say, oh, well, clerically we forgot, go on. I
10 don't -- I don't find that professional. I don't find
11 that meeting with legal code. I don't find that
12 ethical. I find that morally corrupt. And I -- and
13 I'm going to air a big objection to that.

14 Number two is again, chair, you originally
15 said there was 20 days from the date of the pretrial to
16 present new evidence, and then we're saying there's
17 20 days to back up after a continuance. And I think we
18 need to clarify that. There is a comment in -- that
19 was made in -- in support of -- of Ms. Plascencia
20 admonishing us to act professionally and according to
21 the rules, and I'm -- I'm saying we should do that.
22 And -- and we agreed at a pretrial hearing that certain
23 evidence would be available.

24 Now, I understand that you reviewed it,
25 Chair --

1 CHAIR KEEN: Uh-huh.

2 MEMBER NELSON: -- Taylor. And I -- I
3 actually watch every hearing, as the chair, trying to
4 -- to figure out how we figure out to better the
5 hearing process. I do not feel that it is in my
6 purview to rely on evidence that I remember from a
7 prior hearing that isn't in the packet and as part of
8 the presented evidence today. And I -- and that speaks
9 to both sides.

10 CHAIR KEEN: All right. Keith, I --

11 MEMBER NELSON: So I --

12 CHAIR KEEN: Or, Member Nelson -- or, the
13 entire panel, I did find in here that, the 20 days. So
14 it specifically states, it's item number 7 under
15 2.78.080 hearing procedures, if you go forward into E,
16 number 7 states, the city clerk shall set a hearing
17 date on the complaint within city business days of the
18 prehearing conference. Okay. I correct -- I
19 apologize, it does not specifically state the 20 days
20 for the respondent's evidence.

21 City clerk, are you seeing anything
22 different?

23 MS. ARSEO: I did see that the -- that the
24 reply -- reply to the complainant will be provided no
25 later than 20 days prior to the date of -- set for the

1 hearing. But Councilwoman Plascencia did not submit a
2 second reply.

3 Is that correct, Councilwoman Plascencia?

4 COUNCILWOMAN PLASCENCIA: I -- I did not
5 submit new evidence. I submitted a response, to which
6 I was told I was allowed to, which I was told that,
7 based on the timeline, I was well within the timeframe.

8 CHAIR KEEN: So we have that response, and it
9 was dated March 24th.

10 COUNCILWOMAN PLASCENCIA: Yes. So --

11 CHAIR KEEN: Is that -- is that accurate? Is
12 what I'm seeing is accurate for what you have?

13 COUNCILWOMAN PLASCENCIA: It's in the packet
14 on page 188, yes.

15 CHAIR KEEN: And it's dated 3/24.

16 So, Brandon, I'm going to need your guidance,
17 as the chair, on how we would proceed at this point.

18 I know, Councilwoman Plascencia, do -- you do
19 have the opportunity now to discuss any technical or
20 procedural issues that you see, and I know you had your
21 hand raised. You have -- would you like to comment?

22 COUNCILWOMAN PLASCENCIA: So what we're
23 questioning now, because I'm confused as to where we're
24 at in the process, so what we're -- the -- what's in
25 question is the timeframe for my response to this

1 hearing?

2 CHAIR KEEN: Yes, and as well what's being
3 questioned is that at the prehearing, it was voted that
4 the transcripts for the witnesses from the first
5 hearing would be added to the packet, and that
6 transcript is not in our actual packet.

7 COUNCILWOMAN PLASCENCIA: Well, for -- on my
8 end, and I know somebody, I think it was Commissioner
9 Nelson, who felt that it's unprofessional and
10 unethical, I believe it's unprofessional or unethical
11 to -- to set another date for this. This is my -- my
12 career. This is what I'm doing. I think that it is to
13 rehear -- to rehear --

14 MEMBER NELSON: Well --

15 COUNCILWOMAN PLASCENCIA: -- this again, I --
16 you know, and I don't want to get into the weeds about
17 it. I want Brandon to chime in on the timeline because
18 I can't believe we're questioning that right now.

19 Brandon, can you please chime in?

20 MR. MERCER: Yes. I believe the response is
21 proper. It's a response. It's not evidence. She
22 could -- if Councilwoman Plascencia wanted to, she
23 could, at the beginning of her case, just read her
24 response out loud. So I don't -- I don't see anything
25 improper with the response.

1 When it comes to a continuance, you know, the
2 code is very clear when continuances are granted, and
3 continuances are granted prior to the commencement of
4 the hearing. That did not occur. There's no authority
5 for you to have a continuance. This -- this matter
6 should go forward, pursuant to your rules. If there's
7 a problem with the rules, that's something that can be
8 addressed at a later time. But this was noticed, the
9 packet was published pursuant to the Sunshine
10 Ordinance.

11 With all due respect to Mr. Hunter, he had an
12 opportunity to -- to look at the packet and request a
13 continuance prior to today's hearing, but here we are
14 at the hearing. There's -- there's nothing in the RMC
15 that allows you to grant the continuance.

16 CHAIR KEEN: All right.

17 MR. HUNTER: I'd like to --

18 CHAIR KEEN: Based on --

19 MR. HUNTER: I'd like to respond to that. I
20 think I have relevant information.

21 CHAIR KEEN: I believe -- hold on.

22 City clerk Gause, I apologize if I just
23 butchered your name, if you could clear it up, you do
24 have your hand raised and you have for quite sometime.
25 Did you have a comment, Donesia?

1 MS. GAUSE: Tell her, here I come.

2 MS. ARSEO: I'm sorry, she's coming to answer
3 your question.

4 CHAIR KEEN: Okay. Her hand is raised, so it
5 looked like she had had a comment. All right.

6 MS. GAUSE: Thank you, madam chair, for
7 acknowledging me. I'm doing my very best to follow the
8 concerns of Mr. Hunter, while also taking into account
9 the -- Councilmember Plascencia's response. And I'm
10 looking at the ordinance. I'm -- again, I'm coming in
11 on the back end of this, so I'm going to do my very
12 best to make some clarifications.

13 But if it is your concern, Mr. Hunter, that
14 Councilwoman Plascencia submitted a response in -- in
15 error in response to the ordinance, I would call your
16 attention to section 2.78.03 -- excuse me, I'm reading
17 the wrong one, hold on just a second -- 2.78.070,
18 complaint procedures, which allows for the public
19 official, against whom the complaint is made, the
20 ability to submit written -- a written reply, copies of
21 any and all documents, photographs, recordings, or
22 other tangible materials to be introduced and
23 considered at the hearing.

24 And if you read, I, section I, it gives, it
25 allows for that to be submitted to the city clerk no

1 later than 20 days prior to the set of the hearing.
2 And if I heard correctly, without the packet in front
3 of me, Councilwoman Plascencia submitted her response
4 on March 24th, which would have -- which would have
5 complied with the 20-calendar-day requirement of this
6 provision. Does that clarify your concern?

7 MR. HUNTER: You're talking to me, I assume.
8 So no, it doesn't clarify my concern because my
9 complaint was originally lodged in April of 2020, okay?
10 That's when my complaint was lodged, April of 2020. My
11 complaint wasn't lodged just recently. It was remanded
12 back to this -- to this hearing panel. It wasn't
13 lodged. I lodged this complaint over a year ago.

14 CHAIR KEEN: We are, however, Mr. Hunter, in a
15 de novo hearing, and the dates for the new hearing
16 changed, and then we had a secondary new date for the
17 hearing based on the continuance. And based on those
18 dates and what the clerk just explained to us under the
19 actual ordinance, we are within the timeframes. If --
20 if we are, I will -- I would like to say, too --

21 MR. HUNTER: I'll cede the point.

22 CHAIR KEEN: -- if she would like to read that
23 as her opening and closing statement --

24 MR. HUNTER: Sure.

25 CHAIR KEEN: -- she is more than welcome to do

1 that as well.

2 MR. HUNTER: I'll -- I'll cede the point, but
3 I -- but I -- but I do believe her -- her -- her time
4 to have -- have objected, technically, to the -- to the
5 proceedings of this hearing has passed. That was at
6 the -- that was what the prehearing conference was for.
7 I will cede that point, because the more important
8 point is the second point, which is that it is
9 prejudicial against me, as someone who asked to have
10 the transcripts entered from the last hearing into the
11 record of this hearing so I could read things like Al
12 Zelinka saying, it wasn't a -- it wasn't an emergency
13 in his eyes to -- to -- to deal with the -- the
14 business cards, and other quotes are in this transcript
15 that I know exist, okay?

16 That the -- the -- the -- the hearing panel,
17 particularly the newer members of the hearing panel,
18 who weren't at the first hearing, have not had the
19 opportunity to read it, and now I can't even reference
20 it. And it's not my duty, okay, to ask for a
21 continuance because of someone else's mistakes. It --
22 I can ask for a continuance if -- if, let's say, I fall
23 ill or something else happens, okay, then I have to ask
24 for a continuance; but if someone else makes a
25 procedural mistake, I shouldn't have to use my only

1 continuance in order to -- to remedy that issue.

2 And let me go to the -- the municipal code
3 again. It actually reads that only one continuance of
4 the hearing shall be granted by the city clerk to each
5 party, okay? Party. It does not say that the
6 committee, itself, cannot have a continuance upon its
7 own vote. It just says that I can ask for one, the
8 respondent can ask for one, Ms. Plascencia, which she
9 has already done, okay; and we all waited patiently for
10 another, I think, 30 days or whatever -- or 60 days or
11 whatever it was because a continuance was granted at
12 the last second, right?

13 Now I'm saying, I don't want to use my
14 continuance in case the next time we get to a hearing
15 and, whatever, I'm on vacation in -- in -- in Africa,
16 okay, I'm -- I get sick or whatever, I get hit by a
17 bus; I don't want to have to use my continuance because
18 there's evidence that wasn't included in -- in the --
19 in the evidence package. That's not fair.

20 CHAIR KEEN: Keith -- Member Nelson, you're
21 muted.

22 MEMBER NELSON: Champagne's messaging me. She
23 needs to be let back in. She's -- she hit --

24 CHAIR KEEN: I believe the clerk will have to
25 let her in.

1 MEMBER NELSON: Okay. And then in response to
2 -- number one, we're not -- if the May -- or March 23rd
3 is a response and not evidence, I release my objection.
4 Second, in the absence of the clerk having put those
5 transcripts in, I -- it is my understanding at the
6 hearing we can ask -- someone could ask to bring in
7 evidence that wasn't in the package, and we could allow
8 that -- those transcripts to be read as they are
9 appropriate. And I motion that we allow that as
10 they're appropriate.

11 MR. HUNTER: Once again, the issue with that
12 is, is that I can't reference those easily so that
13 everyone who is on the panel -- and even -- or even to
14 -- to be fair to Ms. Plascencia, the defendant can then
15 reference those, you know, in their -- in their hands
16 if they don't have --

17 COUNCILWOMAN PLASCENCIA: Don't worry about
18 me, Jason. Let's just start the process, please.

19 MR. HUNTER: Okay. Well, she's -- she's --
20 she's -- that's fine, but I'm saying, it's still
21 prejudicial against me that the panel doesn't have the
22 evidence that I can reference for them to read from,
23 right? Because I --

24 MEMBER NELSON: I don't --

25 MR. HUNTER: And the whole idea that --

1 MEMBER NELSON: I don't --

2 MR. HUNTER: -- like, I had some
3 responsibility to -- to -- to warn the --

4 CHAIR KEEN: All right. Mr. Hunter --

5 MR. HUNTER: -- clerk --

6 CHAIR KEEN: -- we have -- we've heard your --
7 we've heard your --

8 MEMBER NELSON: Okay.

9 CHAIR KEEN: -- opinion on it.

10 MEMBER NELSON: I'm --

11 CHAIR KEEN: Keith, or Mr. -- Member Nelson.

12 MEMBER NELSON: I had motioned for a
13 continuance, that died from a lack of second. I am now
14 making a motion to allow the evidence to be read in, as
15 needed, since we're --

16 MEMBER FORD: But, you know --

17 MEMBER NELSON: -- not going to continue.

18 MEMBER FORD: -- I -- Keith -- Keith, I
19 apologize, but I -- I was offline, so I don't know what
20 motion and what happened.

21 MEMBER NELSON: Okay. I --

22 MEMBER FORD: I was offline for like
23 (indiscernible).

24 MEMBER NELSON: I'll make it again. My first
25 motion was that this panel grant a continuance based on

1 the fact that the city clerk --

2 MEMBER FORD: Uh-huh.

3 MEMBER NELSON: -- did not put in the evidence
4 that we had voted to be included in the evidence
5 package.

6 MEMBER FORD: I'll second it.

7 CHAIR KEEN: We have a motion and a second.
8 City clerk, can we take it to a vote?

9 MS. ARSEO: Yes, I will call the roll.

10 CHAIR KEEN: Ms. Plascencia is asking to
11 speak. Did I -- I apologize if I missed your speak
12 before calling the vote.

13 COUNCILWOMAN PLASCENCIA: I -- are we just
14 going to ignore that our city -- our city attorney,
15 that's in this meeting, just asked -- just told us that
16 you don't have the authority to -- to do a continuance?

17 MEMBER NELSON: Yes, yes.

18 COUNCILWOMAN PLASCENCIA: We're just going to
19 ignore that?

20 MEMBER NELSON: Yes. City attorneys --
21 attorneys give advice and opinion. Elected officials
22 and appointees make final judge -- decisions.

23 CHAIR KEEN: All right. Are we -- are we
24 taking it to a vote? City clerk, I believe we're ready
25 to take it to a vote. Am I missing anybody's hand

1 raise? I have little hands up everywhere, and I don't
2 want to --

3 MEMBER NELSON: We have the city clerk with
4 her hand raised.

5 CHAIR KEEN: Okay. Clerk Gause, do you still
6 have a comment? Please receive the --

7 MS. GAUSE: No. That was --

8 CHAIR KEEN: Let's --

9 MS. GAUSE: That was prior.

10 CHAIR KEEN: Okay.

11 MS. GAUSE: I've already raised my question.

12 CHAIR KEEN: And am I pronouncing your last
13 name correctly before I get to --

14 MS. GAUSE: It's Gause like cause.

15 CHAIR KEEN: Gause, got it. I would prefer
16 not mess that up for the entire duration.

17 So let's restate the motion and then call the
18 vote. Keith, one last time.

19 MEMBER NELSON: I vote that we continue the
20 hearing until -- until the city clerk can put the
21 requested and approved evidence into a packet, and
22 reschedule as soon as possible.

23 CHAIR KEEN: And, Champagne --

24 MEMBER FORD: I'll second.

25 CHAIR KEEN: -- do you still second?

1 MEMBER FORD: Uh-huh.

2 CHAIR KEEN: Member Ford -- Member Ford
3 seconds. We'll take it to a vote.

4 MS. ARSEO: Chair Keen, may I make an offer if
5 Mr. Hunter is willing? I can find the transcript pages
6 that were presented at the appeal at the city council
7 meeting and forward them to him with the page numbers
8 as they were presented in the packet and then forward
9 that email to all of you if that would be acceptable.
10 So if you want to do that tonight.

11 MEMBER NELSON: I missed who was talking. I'm
12 sorry.

13 CHAIR KEEN: City clerk was --

14 MEMBER NELSON: Okay. I'm --

15 CHAIR KEEN: -- speaking. And she said --

16 MEMBER NELSON: Okay.

17 CHAIR KEEN: -- that she could --

18 MEMBER NELSON: Thank you.

19 CHAIR KEEN: -- forward all those --

20 MEMBER NELSON: I heard --

21 CHAIR KEEN: -- page numbers.

22 MEMBER NELSON: Yeah, I heard what she said, I
23 just didn't know who was making that offer.

24 CHAIR KEEN: The city clerk was.

25 Mr. Hunter, did you hear that offer? I'm

1 seeing head shaking.

2 MR. HUNTER: (Indiscernible).

3 CHAIR KEEN: Are we taking this to a vote
4 right now?

5 Mr. Hunter, did you hear the offer from the
6 city clerk?

7 MR. HUNTER: I -- I heard the offer. The
8 problem is, is that by the time I was preparing my case
9 today and realized that this piece of evidence was
10 missing, that now I haven't had thorough time to review
11 it myself, quite frankly. And it's probably -- I -- I
12 know there's at least two or three choice quotes I'd
13 like to get. I -- you know, I'll -- I'll have to try
14 to find them on the fly.

15 The whole transcript is, you know, probably
16 210 pages. I don't know how we're going to review that
17 on the fly while I'm -- I'm trying to make my
18 presentation. I don't know how I do that. I'd like to
19 be able to actually specifically point to, you know,
20 two or three of the quotes in here and say, you know,
21 please flip to -- to page 822 or 857. I can't do that
22 because I've had no time to prep for this document. I
23 only found out about that it was missing, you know,
24 maybe an hour or two before the hearing.

25 COUNCILWOMAN PLASCENCIA: So that's a no.

1 Let's just call for the vote, please.

2 CHAIR KEEN: Let's call for the --

3 COUNCILWOMAN PLASCENCIA: Thank you.

4 CHAIR KEEN: -- vote, please.

5 MS. ARSEO: I'll call for the vote. Chair
6 Keen.

7 CHAIR KEEN: No.

8 MS. ARSEO: Member Graham.

9 MEMBER GRAHAM: No.

10 MS. ARSEO: Member Nelson.

11 MEMBER NELSON: Yes.

12 MS. ARSEO: Member Ford.

13 MEMBER FORD: Yes.

14 MS. ARSEO: Let's see, it's a 2-to-2 vote.

15 CHAIR KEEN: How do we proceed? I apologize,
16 I am not aware of how we would proceed in the event of
17 a --

18 MS. GAUSE: Motion goes to the --

19 CHAIR KEEN: -- tie vote.

20 MS. GAUSE: -- lack of majority.

21 MEMBER NELSON: I actually think I lose -- the
22 motion is denied by standard procedure. It must carry
23 a majority, even in the even playing field.

24 CHAIR KEEN: All right. Then --

25 MEMBER NELSON: So we can --

1 CHAIR KEEN: -- so at this point we will be
2 continuing the hearing.

3 City clerk Eva, if we can get that sent so
4 that we may continue. We did, at the prehearing, we
5 discussed that there would be 15 minutes for opening
6 and closing split at your discretion for both the
7 claimant and the respondent. You -- you can do that at
8 your discretion. A timer will be kept so you know how
9 much time you have for the closing after your opening.
10 And then I have that we had voted for 30 minutes for
11 each party to present their evidence. Does that all
12 sound correct?

13 MR. HUNTER: I -- you'll have to excuse me,
14 but I -- I -- I thought that I was given more time than
15 that because I had additional evidence to present this
16 time around, but -- there's no minutes from the
17 prehearing? I actually looked to see if I could find
18 that in the prehearing conference, but there's no
19 minutes for the prehearing conference listed on the
20 clerk's --

21 CHAIR KEEN: So the hand -- the handwritten
22 notes that I have taken from the prehearing are that we
23 had originally discussed 25 minutes and then voted to
24 extend that to 30 minutes.

25 MR. HUNTER: Okay. Whatever -- whatever --

1 CHAIR KEEN: Is that --

2 MR. HUNTER: -- we agreed to. That's fine.

3 CHAIR KEEN: Does anyone on the panel have
4 anything different from that? No?

5 MEMBER NELSON: No. I just wanted -- I just
6 wanted to make sure we understand that the -- for both
7 parties, the opening and closing statements are
8 uninterrupted. And not to -- we don't want any
9 interruptions when they're making those.

10 CHAIR KEEN: Okay. Thank you, Keith, that --
11 or, Member -- Member Nelson, that's an excellent
12 reminder.

13 That is solely your time.

14 City clerk, are you able to keep time on
15 those? I can, if necessary.

16 MS. ARSEO: It would be helpful if you would
17 take the time, please.

18 CHAIR KEEN: All right. I'm going to be
19 keeping the time. Mr. Hunter, are you prepared to
20 beginning your opening statement?

21 MR. HUNTER: Yes, I am.

22 CHAIR KEEN: All right. I'm going to go ahead
23 and say start.

24 MR. HUNTER: Good evening. Jason Hunter, Ward
25 1 here. This is pretty simple. And I'm going to make

1 my opening very, very, very short. This case comes to
2 you from what I consider to be violations of our ethics
3 code. Number one is the advocacy of private interest
4 of third parties in certain circumstances is
5 prohibited. No elected official of the City of
6 Riverside shall be -- appear on behalf of a private
7 interest of third parties before the city council.

8 And I think that, you know, when -- when a
9 city councilman changes policy first, does so by
10 breaking our Sunshine Ordinances, writes a very vague
11 report on what's going to be discussed at a city
12 council meeting, members -- so that members of the
13 public don't really know exactly what the agenda is,
14 and then proceeds to -- and here's where the violation
15 in my opinion really occurs. So that opens the
16 possibility for a violation, but the violation occurs
17 once those business cards are printed and those
18 business -- business cards are -- are handed out.

19 And the issue is, is this -- this -- this
20 little tiny little union bug. And we'll go through
21 there in my evidence package. If you -- if you look at
22 it with a magnifying glass or my reading glasses, which
23 are getting better and better prescriptions every
24 single year, what you actually see as part of that logo
25 is a little circle with an R inside it. And what does

1 that mean? It means it's a registered trademark.

2 So there's an organization with a registered
3 trademark, which people pay a lot of money to get
4 trademarks registered in this country, logo on our city
5 business cards. It's entirely inappropriate. And the
6 second that you put somebody else's logo on your
7 business cards, which people -- they have paid, as
8 value to them, not to anybody else, but to them, that
9 organization; you are advocating on the -- on behalf of
10 the private interests of third parties. It's very
11 simple today.

12 And secondly is, a violation of the -- the
13 second thing that we're going to talk about is the
14 violation of the Sunshine Ordinance -- Ordinance. And
15 I've heard over and over again that there's, you know,
16 the council is the only person who gets to decide what
17 urgent means, but that's not true. Because if you look
18 at the actual regulations or policies, ordinances,
19 actually, that were in place at the time, it says
20 clearly, it says, if the mayor or councilmember, with a
21 concurrence of another councilmember, believe an item
22 is urgent, and here's the key word, and the failure to
23 meet any additional notice requirements was due to A,
24 the need to take immediate action which came to the
25 attention of the local body after the agenda was

1 posted.

2 And I am going to prove beyond any reasonable
3 doubt that -- that, first of all, there was no need to
4 take immediate action, which I would be able to prove
5 if I was able to enter the transcripts, because the
6 city manager, himself, said it at the last hearing,
7 that the failure -- and secondly, that came to the
8 attention of the local body after the agenda -- agenda
9 was posted is completely false, in -- in Ms.
10 Plascencia's own words.

11 So I think this is going to be -- I -- I hope
12 that the panel sees things the way it saw it the last
13 time -- time around, it dismisses all the silliness
14 that happened at the last city council member --
15 meeting that caused the remand because the council
16 didn't understand its role as an appellate body, right,
17 they weren't there to enter new evidence and retry the
18 case, they were just supposed to be looking for -- for
19 clear errors or omissions, right?

20 And so I think this has been a giant waste of
21 time. I think we need to look at this entire process
22 again. As I said, once again, I believe it's entirely
23 prejudicial to the complainant because it allows the
24 council to (indiscernible) right? But anyway, with
25 that, I close my opening. And how much time do I have

1 left for my remaining closing remarks?

2 COUNCILWOMAN PLASCENCIA: You're muted, chair.

3 CHAIR KEEN: Thank you, Ms. Plascencia.

4 Mr. Hunter, you used three minutes and
5 51 seconds of your 15 minutes total. So you have
6 roughly 12 minutes. I'll have the exact amount when we
7 get to that point. You have the bulk of your time
8 remaining. We -- I believe --

9 Ms. Plascencia, if you would like an
10 opportunity for --

11 Brandon, am I doing this correctly? He --
12 she would have her opening statement now before
13 Mr. Hunter can present the bulk of his case; is that
14 accurate?

15 MR. MERCER: It -- it's up to her. She can do
16 her opening statement now, or she could reserve her
17 opening statement just prior to her --

18 CHAIR KEEN: Okay.

19 MR. MERCER: -- presenting her own evidence.
20 It's up to the councilwoman how she wants to proceed.

21 CHAIR KEEN: Thank you.

22 Councilwoman Plascencia, how would you like
23 to proceed? Would you like an opening statement now,
24 or are you reserving your time?

25 COUNCILWOMAN PLASCENCIA: I will go ahead and

1 give an opening statement. And you said I have
2 15 minutes?

3 CHAIR KEEN: You have 15 minutes total
4 uninterrupted to be split between an opening and a
5 closing. And if you are ready, I can -- let me clear
6 my timer so I can restart it for you. All right.
7 Whenever you are ready, you may begin.

8 COUNCILWOMAN PLASCENCIA: Thank you. As you
9 are aware, the city council found that the Board of
10 Ethics abused its discretion in making findings --
11 findings that I violated two provisions of the city
12 ethics code. The city council's position is consistent
13 with the response I provided at the initial Board of
14 Ethics hearing that made clear there were no
15 violations. My initial response should have been given
16 greater consideration by the board.

17 In conducting this de novo review, the board
18 should not repeat its errors and further tie up the
19 resources of the city council and city staff by
20 improperly validating these baseless claims a second
21 time. With regard to the allegation that my actions in
22 proposing a city policy, that would permit the use of a
23 union bug on city business cards and stationery, the
24 city council is correct, that the Board of Ethics has
25 no authority to second-guess the policy decisions of

1 the city council.

2 As the city council determined, the union bug
3 on a business card does not promote the interest of a
4 third party as it -- its use is legal. There is a
5 precedent for such an insignia to be used on a city
6 stationery. And the insignia certifies labor performed
7 -- performed, not an allegiance to any one entity. The
8 policy proposed by me and adopted by the city council
9 to allow for union bugs did not act for the benefit of
10 a third party. In fact, no third party was even given
11 -- even named or proposed to be named in the policy
12 decision.

13 Further, the city attorney made it clear
14 during the December 17th, 2019 hearing that there was
15 no legal impediment to the placement of the union bug
16 on city cards and stationery. The Board of Ethics was
17 made aware that numerous other counties, cities, and
18 state government entities have similar policies and
19 have had similar policies in place for decades. The
20 Board of Ethics ignored all of these facts and law,
21 instead making its own layperson legal interpretation
22 of the ethics code. The interpretation was wrong.
23 This error should not be repeated a second time.

24 With regard to the allegation that the city's
25 Sunshine code was violated, the Board of Ethics, in

1 finding a violation, once again substituted its
2 judgment for -- for that of the city council on a
3 discretionary issue. If the mayor or a councilmember,
4 with the concurrence of another councilmember,
5 determine that urgency exists for an item to be placed
6 on the agenda without additional notice, the placement
7 of the item on the agenda does not violate the city's
8 Sunshine code.

9 The Board of Ethics has no authority
10 whatsoever to determine what is or not urgent. Only
11 the city council, which is elected by the people of
12 Riverside, is empowered to make policy decisions and
13 judgments on their behalf. Once again, the board's
14 layperson legal determinations are wrong, and the error
15 should not be repeated. Thank you.

16 CHAIR KEEN: All right. Thank you,
17 Councilwoman Plascencia. We -- you used two minutes
18 and 52 seconds of your 15 minutes allotted for opening
19 and closing.

20 Due to the transcripts not being included in
21 the packet, we have -- I have received them, Member
22 Nelson has received them. Member Ford and Member
23 Graham, have you both received those transcripts?

24 MEMBER GRAHAM: Yes.

25 CHAIR KEEN: City clerk has emailed them.

1 Member Ford, did you get yours?

2 MEMBER FORD: I'm checking right now.

3 CHAIR KEEN: All right. Given that situation
4 that we are moving forward with the hearing, I
5 recommend that we take a ten-minute break to allow
6 Mr. Hunter a few moments with that packet, as well as
7 the panel; and we can reconvene in ten minutes. Is
8 there any -- anyone against that? All right. I am
9 going -- we are going to move for a ten-minute break
10 and reconvene at 7:10, and at which point Mr. Hunter
11 will be giving his case in chief. He has 30 minutes
12 for that when we return.

13 Is everyone good? All right. So we will
14 reconvene in ten minutes, it's a ten-minute break.

15 (Break)

16 CHAIR KEEN: Are Mr. Hunter and Councilwoman
17 Plascencia back?

18 MR. HUNTER: Yes, I am.

19 COUNCILWOMAN PLASCENCIA: Yes.

20 CHAIR KEEN: All right. If we are all back,
21 city clerk, we will come back from our break. Are we
22 live again?

23 All right. We are reconvening after our
24 break. Before we go to Mr. Hunter's complainant time
25 to present your case, just general considerations for

1 the panel and all parties, as a reminder, the
2 complainant has the burden of proof, by a preponderance
3 of the evidence, to establish a violation of
4 prohibitive conduct. The preponderance of the evidence
5 means evidence that is more convincing and therefore
6 more probable in truth and accuracy. And that
7 information can be found in Riverside Municipal Code
8 Item 2.78.080H.

9 Neither party shall be allowed to examine the
10 other party as a part of the presentation for their
11 case; however, a party may cross-examine the other
12 party as to any matters directly testified to by that
13 party during their presentation of evidence, and that
14 is from RMC 2.78.080J. And lastly, during the hearing,
15 any member of the hearing panel may ask questions of
16 the parties or witnesses, and that information is from
17 RMC 2.78.080K.

18 Mr. Hunter, you have, per the prehearing, you
19 have 30 minutes. And you can begin presenting your
20 case when you are ready.

21 MR. HUNTER: Thank you. I would just -- I
22 would just ask IT to start cueing up the first -- some
23 of the videos. Anyway, so -- anyway, so we can go as
24 fast as possible. I would like to start introducing
25 the -- the evidence. First of all, I'd like to -- to

1 call the panel's attention to page 25 of the package,
2 and that is the business card in question. And I would
3 like to call the panel's attention to the very lower,
4 it's a bad copy I have, anyway, I hope you have a
5 better copy than I do, but the union bug is in the --
6 is in the bottom right-hand corner. It's very small,
7 but you can see it.

8 And if you had an actual copy of the card
9 like I do, in front of you, you'd have a much clearer
10 view of it. And -- and -- and if you look at that card
11 and you look on the far left-hand side, and once again
12 you'd need reading glasses probably to see it, but it
13 is there, it has an R with a circle in it. That is a
14 registered trademark, okay? That is something that
15 people pay a lot of money to use to protect their
16 brand.

17 If I was to go about -- and I think people
18 really need to think about this. If I was to go and
19 use that -- that logo on any -- let's say I was running
20 for office, and I used that logo; I could get in a lot
21 of trouble because I -- it's registered, and I don't
22 have permission to use it. So if I -- I -- I can't use
23 it as a private citizen, why -- for a political reason,
24 why can somebody on the council use it? It makes no
25 sense. Obviously, it's a brand that's recognized. It

1 has value. It's -- it's -- it's being used for
2 promotional purposes.

3 Okay. So let's go to the -- my second piece
4 of evidence, which will be on page 164 of your evidence
5 package, please, and that will show the updated
6 Sunshine Ordinances, because I first wanted to show you
7 the union bug, now let's get to the second part of the
8 claim, which is the -- the updated Sunshine Ordinances.
9 And I -- I believe it should be circled, perhaps on 164
10 of your package, where it says, if the mayor or city
11 councilmember, with the concurrence of another
12 councilmember, believe it's urgent.

13 And really, the key word here, once again, is
14 and, and the failure to meet any of the additional
15 notice requirements was due to, and this is the
16 important one, the second one doesn't -- part B doesn't
17 apply, but part A does, the need to take immediate
18 action, which came, and this is the -- the important
19 part, to the attention of the local body after the
20 agenda was posted, okay? And that's where we're --
21 we're going to have problems here or Ms. Plascencia is
22 going to have problems.

23 Let's go to the third piece of evidence I'd
24 like to introduce, which is on page 13. And page 13
25 kind of builds on what I was talking about, a

1 registered trademark, and it talks about -- and this is
2 just something once again, I just pulled off, randomly,
3 off the internet, there was hundreds of things I could
4 have pulled; and it talks about that a union bug has a
5 meaning beyond promoting the individual print --
6 printer, but also has a value to that printer as well,
7 but and the union bug has at least five purposes. And
8 -- and I'll read a few of them that I think are
9 relevant.

10 It is the protection against anti or nonunion
11 shops that might otherwise profess union working
12 conditions. It can be part of a politician's campaign
13 to induce customers to buy union-made products. Well,
14 that's an interesting one. It's a badge of prestige --
15 union prestige to attract new members. And it's a
16 warning against trespass by competitive unions. Wow.

17 So let's go to the next piece of evidence
18 that I'd like to introduce, which is page 91, please,
19 the agenda package, 91 is evidence I -- I -- I -- I
20 compiled. And I'm not going to go through all the --
21 the 460 forms that are in there, but I compiled it
22 here, because I want to give -- give folks an idea,
23 when Ms. Plascencia was elected, where did her money
24 come from. And you can see that a total of, when you
25 count monetary and nonmonetary contributions during her

1 campaign to -- to -- to -- to win the Ward 5 seat, she
2 took 90 -- almost \$93,000 in cash and in-kind
3 contributions. It's a significant amount of money.

4 Okay. So page number -- the next thing I'd
5 like to introduce is page 7, please, of your agenda
6 package. Page 7 of the agenda package, agenda of that
7 day, so people can get an idea of what the public --
8 remember, the agendas aren't just for the -- the city
9 council, they're also for the public, and primarily,
10 and I would say primarily for the public. The city --
11 city council generally knows what's going on, it's
12 inside baseball.

13 It says, can Councilwoman Plascencia -- and
14 it -- it's to 7A, Councilwoman Plascencia recommends
15 guidelines for city council collateral and insignias
16 for official -- I don't see anything about allowing the
17 union bug there. But we also see 7A, and what that 7A
18 means is it was a late addition to the agenda as I -- I
19 -- I -- well, hopefully -- I would have -- I would have
20 like to have shown in the -- in the transcripts, but I
21 didn't have time to find it, but it -- that's what it
22 means, and I -- I can prove that later through some of
23 the other documentation.

24 But again, so I don't think that's -- anyone
25 is really disputing that either, by the way, that it

1 was a late addition to the agenda. So on page 8, the
2 following page, you will see the council, the city
3 council -- excuse me, actually the minutes, and that's
4 on page 10. You will see that the official City of
5 Riverside city collateral -- collateral guidelines,
6 following discussion, the city council approved
7 voluntary use by the mayor or individual members of the
8 city council of the union bug.

9 So this was specifically about the union bug.
10 It wasn't about anything else, just the union bug. It
11 wasn't about other insignia or anything else, just the
12 union bug, on the official City of Riverside business
13 cards or stationery. And you'll see that that was
14 motioned by Councilwoman Plascencia and seconded by
15 Melendrez and passed in a 5-2 vote.

16 Let's go to the next item on my list, which
17 is -- are the -- the council report for that day
18 beginning on page 8. And I'd like to call people's
19 attention to the background where it says, the City of
20 Riverside brand manual establishes the guidelines and
21 parameters needed to maintain the branded image of the
22 City of Riverside. It includes information on how to
23 protect the brand of the City of Riverside and
24 introduces approved symbols, marks, and messages. It
25 is important to protect design standards in order to

1 build a stronger more recognizable brand.

2 Well, I would ask, how do you build a
3 stronger more recognize -- recognizable brand when you
4 put someone else's brand on your business card that is
5 a registered trademark? So then if we go to the
6 discussion, it says the city council will openly
7 discuss the -- the guidelines for official City of
8 Riverside collateral and determine what insignias
9 should and should not appear on the collateral. City
10 council collateral includes, but is not limited to
11 business cards, letterhead, emails, memos, envelopes,
12 newspapers.

13 When considering the design of the city
14 council collateral, it is important to remember that
15 the collateral represents the City of Riverside city
16 council, and it's important to show -- to show respect
17 and concern of how it's used in its display. Anyway,
18 it goes on to ask three questions down there. I don't
19 want to spend too much of my time on this, but I think
20 you will distinctly see that there is no mention of a
21 union bug. And who wrote the report? Well, if you see
22 down on the bottom of the page, you will see that it
23 was Councilmember Plascencia who wrote the report.

24 So let's go to page 11, please. And page 11
25 is sort of the city's guidelines on how staff reports

1 are supposed to be assembled. And if you go to the
2 policy section, you will see a sentence that reads,
3 they shall be concise, but must include sufficient
4 information to enable the city council, successor
5 agency to redevelopment agencies, authorities, and city
6 council members -- members -- committees to make an
7 informed decision. All costs to the city must be
8 identified.

9 If you go back to that previous report, you
10 will not see any costs identified. Actually, I think
11 it does have a fiscal impact -- impact. It says,
12 there's no anticipated physical impact associated with
13 the recommended actions to the report, but I don't
14 think that's completely true. And secondly, these --
15 these reports are not -- I think the city memo or -- or
16 administrative manual is a little bit off because it's
17 not just for the city council. Those reports are for
18 the public so that the public can review those reports,
19 I'd say more importantly than city council, because 340
20 of us -- thousand of us in Riverside, eight elected
21 people up on that city council, that dais.

22 Next on my list is the branding manual. And
23 I don't have much to say about this. It's a huge
24 document. It is on page 26. And what I really want to
25 do is once again just reemphasize something, it's on

1 page 28, and read out of the guide, which says, in this
2 guide, we introduce you to our city symbol, its mark,
3 its message. We must show respect and concern with how
4 it's used and displayed, respecting the guidelines,
5 protect our image, and build a stronger more
6 recognizable brand in all that makes the City of
7 Riverside so extraordinary. And I'd say, when you mix
8 the brands together, you have two brands, including one
9 that's trademarked, that is not accomplishing the goal
10 of the city's branding manual.

11 I would like next to go to the city clerk's
12 answers. This would be on page 166, please. And if
13 you go to 166, it's actually specifically 1 -- 168, I
14 asked the question, this is prior to the last hearing,
15 so this wasn't evidence entered into the record as --
16 as part of testimony, this was questions that I'd asked
17 ahead of time; I asked -- asked about -- the clerk
18 about did Councilwoman Plascencia receive any training
19 on the Sunshine Ordinances, if so, when. Did she ask
20 the city clerk's office on for any advisement on
21 bypassing normal notice requirements in regards to item
22 7A, if so, what was advised.

23 And it says her answer on -- on December 6th,
24 Councilwoman Plascencia participated in an orientation
25 presented by the city clerk and city attorney where

1 training was provided on the Sunshine Ordinance. I do
2 not specifically recall an inquiry by Councilwoman
3 Plascencia regarding the add -- adding the items --
4 item to number 7A on the December 17th agenda, et
5 cetera, et cetera.

6 And so what I want to show there is that she
7 was trained. She knew -- that she can't claim
8 ignorance. She was -- she was just trained days
9 before. She has a responsibility to understand the
10 rules by which the council has to -- to operate. And
11 it does not appear that the city clerk was asked any
12 additional follow-up questions as to whether this was
13 compliant with policy.

14 Let's go to page -- now, let's go to the
15 transcript, if people have the transcript in front of
16 them. Once again, I was -- I -- I was only given a
17 brief amount of time to -- to review the transcript,
18 but I did find a couple of important passages. And I
19 would like to -- if people can -- maybe at the top
20 right-hand corner of those pages, and I'd like the
21 folks -- folks to reference those -- those pages in --
22 in the transcript. And this would be 86. And I'll
23 give you a second to get to page 86. And this is a
24 response by Mr. Zelinka.

25 And I think it's important to understand in

1 -- in the context of those very vague reports and
2 agenda descriptions offered by Ms. Plascencia on the
3 union bug, it's Mr. Zelinka talking about the onboard
4 -- boarding process of the city council; and he says,
5 but part of that preparation, as also as Colleen --
6 Colleen mentioned, including onboarding and orientation
7 processes for the city councilmembers-elect so they
8 were equipped as much as possible when they assumed
9 office on December 3rd.

10 When -- and -- and, you know, I've gone back
11 and tried to look through all my Outlook meeting,
12 archives, and notes and emails to compile this for you,
13 but as I -- as the councilmember, in response
14 indicated, we had met. And I believe, based upon my
15 Outlook archives, we met on November 12th of 2019.
16 That is before Councilwoman Plascencia was installed in
17 office. And we talked about a whole range of items as
18 the councilman -- councilwoman indicated, that there's
19 -- it's drinking out of a fire hose and there's so much
20 to talk about.

21 During that conversation, the councilwoman
22 and councilmember-elect indicated interest in a union
23 bug logo on her card. If you go to the next page on
24 88, and you -- the first sentence says, I think it was
25 the next -- the next day Shanae required a call in

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

7 I think that proves that, you know, this --
8 the -- the idea was to put the union bug, not other
9 insignia, like was described in that agenda report,
10 okay? It was specifically to address the union bug.
11 Never mentioned to the public.

12 And let's go to page -- hold on. I've got to
13 flip. I lost my -- my note here unfortunately. There
14 is a reference, if I can find it. Here we go. I would
15 like to go to page 124 and read from Mr. Zelinka's
16 statements -- statements again. And he says, and what
17 I was concerned about was, what else can go on there.
18 This was Mr. Zelinka -- Zelinka's concerns about the
19 union bug, itself. If -- if -- because of -- there's a
20 First Amendment issues from my standpoint. Because if
21 one person can have a logo on there, what is -- what is
22 stopping another person from having a different logo on
23 there, maybe the antithesis of the union bug, right?
24 And you could have dueling logos, and I was concerned
25 about that. And so just -- just in general.

1 So this policy discussion that we -- we
2 geared up for was something that was going to take, we
3 figured, until, like, January or February. My guess is
4 Mr. Zelinka was implying that he thought it was a
5 complicated discussion. And I didn't have the
6 appreciation that it was an urgent matter until the
7 city clerk's office, the city published that agenda and
8 the councilwoman came to me and said, why isn't this,
9 you know, this on here.

10 Okay. There's the -- the transcript. I
11 would like next to go to -- I'd like to go to the
12 videos. Can we show the videos of the December 3rd
13 meeting, please, where at -- at the cue points that I
14 -- I've -- I've indicated? And I'd like to run that
15 video until I say stop.

16 CHAIR KEEN: Are we prepared to run the video?

17 MR. HUNTER: Can I have my time stopped until
18 that video is ready?

19 CHAIR KEEN: I did stop it.

20 (Video started)

21 COUNCILWOMAN PLASCENCIA: Thank you. I wanted
22 to ask my colleagues to consider, so per Resolution
23 23437, Council Rules of Procedure, I would like my
24 colleagues on the city council to consider my request
25 that the city attorney and city manager bring to the

1 city council, as soon as possible. I know that we will
2 probably have a packed agenda next meeting, but
3 whenever it's possible to add to the agenda, depending
4 upon what's on the agenda, that a discussion to
5 determine policy options for including items and logos
6 other than official city business on the city council
7 business cards and other collateral materials. Thank
8 you.

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

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

17 MAYOR BAILEY: Okay. Seven, eight,
18 Councilwoman Plascencia recommends guidelines for city
19 council collateral insignia's for official city
20 business.

21 Councilwoman.

22 (Video stopped)

23 MR. HUNTER: All right. Please stop right
24 there. So -- so what I wanted to show there is that --
25 that the key words were, as soon as possible; not

1 urgent, not immediate and that no -- no mention of the
2 union bug was made again there, even though it was very
3 clear from the transcript with Mr. Zelinka that that
4 was the intent all along. And even the mayor tried to
5 -- to warn Ms. Plascencia that something like this
6 would probably need to go to committee first so it
7 could be thoroughly vetted. And that advice was
8 ignored.

9 Let's run the next video.

10 CHAIR KEEN: Your time was stopped,
11 Mr. Hunter.

12 MR. HUNTER: Okay.

13 (Video started)

14 COUNCILWOMAN PLASCENCIA: So in 2015, the
15 council, at the time, wanted to change the logo, and so
16 I know as individuals, we can decide what logo we want
17 on our council cards. And so I wanted to bring this to
18 discussion, as I'd like to add an insignia to mine,
19 which is the labor bug. So, you know, I wanted to hear
20 everyone's, you know, input and see what they think.
21 So as individuals, you can choose to have the emblem
22 you see here on the wall or the city logo on your card.

23 So I think, individually, we can choose
24 certain things that we add. And so, personally, I'd
25 like to add that onto my card.

1 MAYOR BAILEY: Any other discussion on that?
2 Councilman Conder.

3 COUNCILMAN CONDER: Yeah, mayor. This
4 government supports all personnel, whether they're
5 union or not. This is a bad precedent to set. If this
6 goes forward, then I will be recommending that the Ward
7 5 councilwoman be removed from all dais and
8 closed-session discussions referencing anything to do
9 with union negotiations, any votes of -- on their
10 salaries, as she has clearly made up her mind of where
11 she is going to go. And this is a bad thing to do for
12 an open government that supports all.

13 MAYOR BAILEY: I don't -- I haven't looked
14 directly at the ethics, the Code of Ethics. I know it
15 -- it calls for us to be nonpartisan and to try to be
16 as objective as possible. And so I -- I would, before
17 we make a decision, at least ask the -- the Board of
18 Ethics to look at that for us and to -- to vet it
19 through -- through their view and -- and -- and
20 perspective and -- and the code, specifically.

21 I think that that would be a great place to
22 start the conversation to have them give us a
23 recommendation towards -- towards your -- your -- your
24 suggestion.

25 Councilman Perry.

1 COUNCILMAN PERRY: Thank you. I'm not sure
2 who to direct this question to. I -- I guess my -- I
3 -- I don't really have an issue with this particular
4 request, but where does this open us up down the line?
5 I -- and I'm not sure to direct this to the city
6 attorney or if this goes to Board of Ethics. Because I
7 understand the -- the request behind this, but does
8 this open up the door for any one of us to --

9 MR. HUNTER: And that's fine.

10 COUNCILMAN PERRY: -- put anything we want on
11 our cards?

12 (Video stopped)

13 MR. HUNTER: Let's stop right there, please.
14 So I'd just like to add that into the record. I don't
15 have -- I only have 30 minutes. I can't play the whole
16 thing in its entirety, as I would like to. But I -- I
17 would like to mention that this is the first time that
18 the union bug is actually mentioned, and it's at the
19 actual hearing. No one has any notice that this is
20 going to be on the agenda.

21 Secondly, I noticed, I -- I thought it a very
22 (indiscernible) call by the mayor, that the Code of
23 Ethics calls for us to be nonpartisan and objectionable
24 -- objective. Why would he say that if he believed
25 that the union bug was either of those two?

1 So let's go to the -- the -- the -- the -- I
2 asked for another piece of evidence at the prehearing
3 conference. It was a video of a meeting that happened,
4 I believe, just about a month later, detailing, and
5 I'll give you a little heads up on it, it's about trash
6 service at the City of Riverside and how there was a
7 suggestion under the previous council to out --
8 outsource portions of the trash service. And it's --
9 just -- just to tell you, maybe give you a little bit,
10 I guess bury the lead ahead of time, is that it ended
11 up being turned around at that meeting from in -- from
12 looking into outsourcing trash service to looking into
13 insourcing all of the trash service.

14 So when people try to make the connection
15 between campaign contributions to a union bug on
16 someone's card to how someone might act when given an
17 opportunity to preference unionized labor over
18 nonunionized labor, this is how it happens, and these
19 are the results. So you tell me that is not basically
20 acting on the -- on the -- the best interests of the
21 private parties of -- excuse me -- the private interest
22 of third parties, which is the ethics code violation on
23 the union bug.

24 Please pay that video at the first time stamp
25 of 2:42:42, please.

1 (Video started)

2 MALE SPEAKER: Plascencia.

3 COUNCILWOMAN PLASCENCIA: Thank you. Thank
4 you, staff. Cindy, you've been great at giving us very
5 detailed information. So I just want to kind of have a
6 conversation about number four, because I do believe, I
7 agree with you that it ties into number one. So let's
8 say we discuss, you know, this is in -- in -- in the
9 near future, an opportunity to increase our revenue.
10 And if we decide to do a rate increase, which it sounds
11 like we need to, could staff consider, or maybe this is
12 a conversation for -- for council now as well, to maybe
13 not extend the contract for so long because we can look
14 at, the city can look at doing all these services
15 inhouse.

16 Since we're looking at a rate increase, what
17 if we increase the rate to include all services that --
18 that would be done inhouse. So I think that would
19 impact our vote for number one if we looked at that.
20 So obviously, I'd need staff -- some more information
21 from staff as to what that would look like. And I know
22 you mentioned earlier that the reason why we had the
23 option to extend for one year is because you weren't
24 sure if you'd need more time. And so I just don't know
25 if that's feasible.

1 So I guess I'd like to hear, if we decided to
2 do a rate increase and if staff could look at
3 insourcing all of our trash services.

4 MAYOR BAILEY: I think that would be --
5 (Video stopped)

6 MR. HUNTER: Please stop there. Please stop
7 it there.

8 And so -- and so what -- what's being
9 discussed here is, you know, regardless of the -- of
10 the impact on city ratepayers, what, you know, could we
11 please look at inhousing, which for reference, all of
12 our inhouse jobs are unionized jobs. I believe they're
13 under the SEIU.

14 Please go to the next clip at 3:04:48 of that
15 tape.

16 (Video started)

17 COUNCILWOMAN PLASCENCIA: I'll second your
18 motion, Councilmember Melendrez. Let me just clarify
19 to be sure. So we are saying that we are not
20 outsourcing our services, that we are keeping our
21 refuse services inhouse. And the other piece that we
22 discussed earlier about looking at a long-term
23 inhousing everything else, and staff would be coming
24 back to us with more information about what that would
25 look like, what that would cost, and how that impacts

1 the rate increase, correct? No? How am I off?

2 MAYOR BAILEY: No.

3 (Video stopped)

4 MR. HUNTER: That's good. Stop the -- stop
5 the video there. It just kind of emphasizes the first
6 point I meant. So if anybody had any questions about
7 what was the intent of, you know, Ms. Plascencia there,
8 I think it's -- it's very clear.

9 Please go to the next clip, which is 3:30 --
10 3:32 on the dot, 00, of that same meeting about trash
11 services, insourcing versus outsourcing -- sourcing.

12 (Video started)

13 COUNCILWOMAN EDWARDS: The motion did include
14 an RFP, but what I was hoping we could do is solidify
15 that we would keep inhouse what we currently have
16 inhouse and then put an RFP out for the additional work
17 that's being done, just to look at what we're
18 contracting out now for residential and additionally
19 thinking about what we're contracting out now for
20 commercial, what it would look like to bring that
21 inhouse. And then we would have an apples-to-apples
22 comparison.

23 MAYOR BAILEY: Well, that would be --

24 MR. HUNTER: If you can stop right there.

25 MAYOR BAILEY: That would be --

1 (Video stopped)

2 MR. HUNTER: So now you've seen the actual
3 motion that was proposed. It was a substitute motion
4 proposed by Councilwoman Edwards.

5 And let's go to the -- the -- the last clip
6 of video here. And this will conclude my presentation
7 at 3:39:27 of that video.

8 (Video started)

9 MAYOR BAILEY: Well done. We've got a motion
10 and a second on the floor. The substitute motion is
11 Councilmember Edwards seconded by Ward 7 Councilmember
12 Hemenway. Looking for a vote.

13 COUNCILMEMBER: And -- and which one are you
14 looking on, Councilmember Edwards's motion first?

15 MAYOR BAILEY: Yeah.

16 COUNCILMEMBER: Is that what you're looking
17 at?

18 MAYOR BAILEY: That's the substitute motion.
19 The motion passes 5 to 2 with Councilmember Melendrez
20 and Conder dissenting. All right. We're going to --

21 (Video stopped)

22 MR. HUNTER: Thank you. You can stop it right
23 there.

24 And so we see how the vote came out.

25 Ms. Plascencia voted in favor of it. With that, I

1 conclude the presentation of my evidence.

2 CHAIR KEEN: All right. Thank you,
3 Mr. Hunter. With a couple minutes to spare.

4 All right. So city council -- city attorney
5 Brandon, I just want to verify before I move it to
6 Councilmember Plascencia for -- as her response, do we
7 -- does she have the opportunity to question any of
8 that testimony before we move on to her case-in-chief?
9 I'm making sure I'm following protocol correctly.

10 MR. MERCER: Can you hear me?

11 CHAIR KEEN: Yes, now I can.

12 MR. MERCER: Okay. For some reason when I
13 click on a button, there's just like this five-second,
14 ten-second delay. Mr. Hunter didn't really testify.

15 CHAIR KEEN: Okay.

16 MR. MERCER: He didn't. He really was just
17 presenting pieces of evidence. I didn't hear him say,
18 I did this or I saw that.

19 CHAIR KEEN: Okay.

20 MR. MERCER: It was really just pointing to
21 documents and -- and kind of explaining what they --
22 what he -- how he interprets them. So I -- I don't
23 really think cross is -- is -- is warranted because he
24 didn't really testify to anything --

25 CHAIR KEEN: Okay.

1 MR. MERCER: -- he personally observed.

2 CHAIR KEEN: All right.

3 MR. MERCER: So I --

4 CHAIR KEEN: Thank you.

5 MR. MERCER: -- guess we would turn it over to
6 -- to Councilwoman Plascencia to present her case. And
7 similarly, if she's showing documents or whatnot, you
8 know, there would be no reason -- there's no
9 cross-examine of her if she's not actually testifying.

10 CHAIR KEEN: All right. Thank you, city
11 attorney.

12 Do anyone -- does anyone on the panel have
13 any questions for Mr. Hunter regarding his evidence
14 before we move forward?

15 MEMBER FORD: Hey, Jason, I have a question.
16 You had -- I forget what number it was, you but list
17 the campaign contributions. I think it totalled 93,000
18 to 95,000. Was they a breakdown of what those
19 entities, if they (indiscernible) quote-unquote union
20 bug we've been discussing on that -- on that logo? I
21 didn't see you tie it in. You did look -- I -- was it
22 was -- was it 980-something?

23 CHAIR KEEN: It's page 92 if that helps.

24 MEMBER FORD: That -- okay, perfect. Let's
25 see. So 92, okay. So Jason, I'm just curious, we see

1 92,000. All of these (indiscernible) fall under -- do
2 all of these entities fall under the union bug?

3 MR. HUNTER: And you're kind of breaking up
4 on --

5 MEMBER FORD: You --

6 MR. HUNTER: -- me. I don't know if anybody
7 else is having problems hearing Ms. Ford.

8 MEMBER FORD: Okay. You know what it is, it's
9 all these cameras on slows down -- let me turn my
10 camera off. That will probably help. So okay. So we
11 see 90 -- 92,000. Of all of these contributions, what
12 percentage do you think, quote-unquote, kind of falls
13 under the bug? Because it seems like you're giving us
14 this list for a reason. Do these entities fall under
15 this union bug?

16 MR. HUNTER: Oh, I -- I don't -- my guess is
17 that they would all have logos, I mean, a hundred
18 percent of them.

19 MEMBER FORD: Okay.

20 MR. HUNTER: Some sort of a bug.

21 MEMBER FORD: Okay.

22 CHAIR KEEN: So looking at page 92, is that --
23 am I reading it correctly that 71,000 roughly of the
24 92,000 is union contribution?

25 MR. HUNTER: No, that's cash contributions.

1 CHAIR KEEN: Cash, okay.

2 MR. HUNTER: Yes.

3 CHAIR KEEN: And then the rest is in-kind, I
4 see. Thank you.

5 MEMBER FORD: Okay. But, Jason, you're saying
6 most of them will probably benefit or in some way
7 (indiscernible) by her having that bug on that business
8 card promotes their -- I'm -- I'm just trying to --
9 trying to get the connection.

10 MR. HUNTER: Well, if we go back to the -- the
11 evidence on page, once again page, I think it was 13,
12 what -- what I'm trying to say is that there -- there's
13 a benefit that goes beyond just the individual benefit
14 to that printer's union and it's -- it's -- it's seen
15 on -- you know, you could do your own independent
16 research. I just pulled something off the internet
17 real quick. That there's a benefit to the signaling.
18 It's a -- it's a -- it's a signal to the -- to the
19 market once it goes onto the -- to the cards -- the
20 cards that this is a union-friendly town and maybe a
21 not -- a not-so-friendly town for -- for nonunion
22 interests.

23 And it says, once again, I just -- I just --
24 this is -- it's not my words, it says, it's a
25 protection against anti or nonunion shops that might

1 otherwise -- you know, and -- and says it can be part
2 of a public relations campaign. It -- it's a badge of
3 union prestige to attract members. It's a warning.
4 This is the real one that scares me is it's a warning
5 against trespass by competitive unions and probably
6 competitive nonunions as well.

7 So anyway, it's -- it's -- it -- I think it
8 has a larger meaning, quite frankly.

9 MEMBER FORD: Okay.

10 CHAIR KEEN: Does anyone else on the panel
11 have any questions for Mr. Hunter? All right. If
12 there are no further questions for Mr. Hunter, what we
13 will do at this point is move it forward to
14 Councilmember Plascencia's 30-minute time to present
15 her response to the complaint.

16 COUNCILWOMAN PLASCENCIA: Thank you, chair.
17 Mr. Hunter hasn't provided any new relevant evidence.
18 He was wrong in his initial complaint, and he continues
19 to be wrong. If I'm going to be judged based on my
20 460s and my ability to fundraise, then so -- so should
21 my colleagues. The clips you've seen today only show
22 either my comments -- and you saw how we all voted.
23 Our council has created policy, has made a stance as
24 to --

25 MR. HUNTER: Objection.

1 COUNCILWOMAN PLASCENCIA: -- the kinds of
2 policies --

3 MR. HUNTER: Objection. This is --

4 COUNCILWOMAN PLASCENCIA: -- that we are going
5 to --

6 MR. HUNTER: -- not evidence.

7 COUNCILWOMAN PLASCENCIA: -- the kinds of
8 policies --

9 Excuse me, I didn't interrupt you, Jason.

10 MR. HUNTER: Objection. This is not evidence.

11 COUNCILWOMAN PLASCENCIA: The kinds of
12 policies --

13 Chair, can you --

14 MR. HUNTER: Thanks. This is argument.

15 COUNCILWOMAN PLASCENCIA: -- please ask him to
16 stop --

17 CHAIR KEEN: Mr. Hunter --

18 COUNCILWOMAN PLASCENCIA: -- interrupting me?

19 CHAIR KEEN: Mr. Hunter --

20 Brandon -- city attorney Brandon --

21 MR. HUNTER: This is argument, not evidence.

22 CHAIR KEEN: City attorney Brandon, can you
23 weigh in on this, please?

24 MR. MERCER: Yes. She's testifying. She --
25 she's presenting exactly the same as Mr. Hunter did.

1 He was showing things, interpreting them, throwing in
2 argument as -- as well. It's up to Councilwoman
3 Plascencia how she wants to present her case. And as
4 we stated before, the formal rule -- Rules of Evidence
5 do not apply in these hearings.

6 MR. HUNTER: Objection. Bias on behalf of
7 counsel.

8 COUNCILWOMAN PLASCENCIA: So can I --

9 CHAIR KEEN: There --

10 COUNCILWOMAN PLASCENCIA: -- continue?

11 CHAIR KEEN: City attorney, doesn't what is
12 spoken to have to be evidence that's already in the
13 packet? And the only information that we have from
14 Ms. Plascencia is the response, the written response
15 from 3/24 and the written response from the first
16 hearing. If we were --

17 COUNCILWOMAN PLASCENCIA: I am allowed to say
18 -- excuse me, with all due respect, I'm allowed to, my
19 30 minutes, to say whatever I'd like whether it was
20 written -- in writing or not.

21 Brandon; is that correct?

22 MR. MERCER: Well, what I hear the
23 councilwoman talking about is what happened, her
24 interpretation of what happened. She was explaining
25 what is missing in the evidence, because she was

1 personally there. These are based on her personal
2 observations. She was at the hearings. She knows what
3 evidence was not presented. And she has the right to
4 comment on how those proceedings moved forward. So I'm
5 a little confused at -- at what the -- what the issue
6 is when she's commenting about a council hearing or a
7 council meeting that she was present at and she's
8 discussing what occurred during that meeting. And that
9 -- that seems --

10 MEMBER NELSON: I -- I --

11 MR. MERCER: -- proper.

12 MEMBER NELSON: I think that she has to tie it
13 to the specific meeting.

14 COUNCILWOMAN PLASCENCIA: Thank you.

15 MEMBER NELSON: And you -- and you may have,
16 but are -- are -- are you tying it to the specific
17 meeting that was presented as evidence? That's a
18 question.

19 COUNCILWOMAN PLASCENCIA: I am commenting on
20 the evidence that was presented. And I am allowed to
21 comment on the evidence that was presented. And I
22 would like to continue. And I hope that the clock is
23 not ticking, because I don't think that -- I allowed
24 him to say whatever he wanted without any
25 interruptions, whether I liked it or not, whether it

1 was true or not. I just want the same courtesy.

2 CHAIR KEEN: So my concern right now is, in
3 looking at the -- the chair protocols that I was
4 provided by the city attorney, it says that the
5 respondent may present your case, call witnesses, and
6 then there could be cross-examination by the
7 complainant of those witnesses. And the way I
8 understood it is that the only evidence that could be
9 discussed for each person's presentation of their case
10 is evidence that's actually in the packet. It's not a
11 time to argue --

12 COUNCILWOMAN PLASCENCIA: I wasn't arguing.

13 CHAIR KEEN: -- the case like that.

14 COUNCILWOMAN PLASCENCIA: I was stating my
15 experiences. So that's your interpretation. That is
16 not my interpretation. And our city attorney, who is
17 on staff right now, has already explained that. So I
18 would really like my time back so I can continue with
19 my response, please.

20 CHAIR KEEN: In all due respect,
21 Ms. Plascencia --

22 MEMBER FORD: I -- I --

23 CHAIR KEEN: -- I am not making an
24 interpretation. I am reading the information that was
25 provided to me by the city attorney to run this

1 meeting. So I definitely hear your concern, but I am
2 not making any interpretations at this point. I am
3 specifically reading it, and it says that you would
4 present your case. The information in the cases being
5 presented is supposed to be in our packet. And the
6 only thing that we have from you in this packet are the
7 two statements, the one from 3/24 and the one, I
8 believe, it's from 3/10.

9 So please don't --

10 MEMBER FORD: I -- I --

11 CHAIR KEEN: -- comment that I am making an
12 interpretation. I am reading information provided to
13 me by the city staff.

14 Member Ford, I see that you have a comment.

15 MEMBER FORD: No. I -- I -- I think that she
16 should be allowed to continue. I think Keith is maybe
17 asking for more of like a -- of a nexus, right? So
18 instead of just making these broad -- these broad
19 statements, I think he maybe wants her to tie in -- tie
20 it in with what has been presented and what she has
21 submitted. So I think that's all he's asking.

22 Am I --

23 MEMBER NELSON: Yeah. I -- I --

24 MEMBER FORD: -- right, Keith, or did I get it
25 wrong?

1 MEMBER NELSON: Yeah. I think she
2 misunderstood my question and took offense to --

3 MEMBER FORD: Yeah.

4 MEMBER NELSON: -- it.

5 MEMBER FORD: Yeah.

6 MEMBER NELSON: My question is, are you
7 talking about the council meeting that was in the video
8 that is in evidence. That was my question.

9 COUNCILWOMAN PLASCENCIA: And I responded --

10 MEMBER FORD: He just --

11 COUNCILWOMAN PLASCENCIA: -- yes --

12 MEMBER FORD: -- wants that --

13 COUNCILWOMAN PLASCENCIA: -- to that.

14 MEMBER FORD: -- nexus, yeah.

15 COUNCILWOMAN PLASCENCIA: And if I --

16 MEMBER FORD: Okay.

17 COUNCILWOMAN PLASCENCIA: -- were to be
18 allowed to finish my response, maybe it would tie into
19 what you're asking, but being interrupted by Mr. Hunter
20 is -- is not okay.

21 CHAIR KEEN: All right.

22 MR. HUNTER: I have another objection --

23 COUNCILWOMAN PLASCENCIA: (Indiscernible)
24 the same --

25 MR. HUNTER: -- objection that's --

1 COUNCILWOMAN PLASCENCIA: -- courtesy.

2 MR. HUNTER: I -- I have another objection,
3 which is that Ms. Plascencia's treating the city
4 attorney (indiscernible) --

5 COUNCILWOMAN PLASCENCIA: I can't hear you.

6 MR. HUNTER: -- and asking questions to him
7 directly -- asking questions to him --

8 CHAIR KEEN: Mr. Hunter, you're breaking --

9 MR. HUNTER: -- directly versus going
10 through --

11 CHAIR KEEN: Mr. Hunter, you're --

12 MR. HUNTER: -- the chair.

13 CHAIR KEEN: -- breaking up.

14 MR. HUNTER: Oh.

15 CHAIR KEEN: And, Mr. Hunter, honestly what
16 you just said broke up a lot for me. I don't know if
17 it did for everybody else. If you could, please
18 refrain from making -- like, overstepping what she's
19 speaking.

20 And, Ms. Plascencia, if you could please
21 refrain from implying that we're interpreting something
22 when I am reading something that was provided by the
23 city attorney. And obviously, you're not here in the
24 room with me. I did stop your time. You were only
25 about 11 seconds in. You -- barely any time was in

1 prior to Mr. Hunter stating an objection. So I -- it
2 is stopped, and I will go ahead and hit start again as
3 soon as you begin again. Whenever you are ready, I can
4 restart your time.

5 COUNCILWOMAN PLASCENCIA: Thank you. The
6 first allegations contend -- the first allegations
7 contend that I violated the city code section 2.78.060,
8 section D, which relates to the advocacy of private
9 interests of third parties by a councilmember before
10 the city council. Specifically, the code provides as
11 follows, advocacy of a private interest of a third
12 party in certain circumstance is prohibited. No
13 elected official of the City of Riverside shall appear
14 on behalf of the private interest of third parties
15 before the city council, nor shall any appointed member
16 of a board, commission, or committee of the City of
17 Riverside appear before their own body on behalf of the
18 private interest of third parties, except for limited
19 exceptions as provided for in the California Fair
20 Political Practices Commission regulations or otherwise
21 by law.

22 The allegation against me is that, by
23 proposing a city council meeting -- a policy that the
24 city councilmembers may add a union bug to their city
25 business cards and stationery, I was advocating for the

1 private interests of a third party. This allegation
2 fails for several reasons. First, as the city council
3 noted in findings, the Board of Ethics abused its
4 authority in finding a violation.

5 The issue before the council was a policy
6 choice, not the private interest of a third party. The
7 city council's entire function is to make policy for
8 the city. Only the council is authorized to do so, as
9 they are elected representatives of people -- the
10 people of Riverside. The Board of Ethics may not
11 substitute its policy judgment for that of the council.

12 The use of the union bugs on products is a
13 practice that stretches back for centuries. It's
14 purpose is to identify that the labor used to make the
15 product enjoyed the benefits of union membership in
16 terms of collective bargaining, of wages and conditions
17 to raise the standards of living for working people,
18 among others. Union bugs on public business cards and
19 stationery is -- is ubiquitous throughout government.

20 I provided just a small number of local
21 examples of this in my original use. The union bug
22 does not financially benefit a specific union. Rather,
23 it is a policy choice to demonstrate support for
24 working people and organized labor. The Board of
25 Ethics should play no role in such policy decisions.

1 Second, if the Board of Ethics were to
2 continue labeling actions, such as the one taken with
3 regard to the union bug, as advocacy of a private
4 interest of third parties, the city council would no
5 longer be able to make many of its basic required
6 decisions. For example, if a new business development
7 comes before the city council for approval, if a city
8 councilmember speaks on behalf of the project from the
9 dais, that would appear to fit within the Board of
10 Ethics's overly broad definition of advocacy of a
11 third-party interest, yet the city is required to make
12 decisions such as this at virtually all city council
13 meetings.

14 The logical extension of the Board of
15 Ethics's decision regarding the union bug policy would
16 illegally punish clearly permissible and, in fact,
17 required actions by the city council. The Board of
18 Ethics has no such authority and should end this --
19 this interpretation of city code 2.78.060D immediately.

20 Next, I did not appear before the city
21 council. That term does not refer to the city
22 councilmember participating in a meeting from the dais,
23 rather it refers to addressing the city council as a
24 member of the public or other interested party would.
25 Further, city code section 2.78.060D references

1 exceptions to the code that can be found in FPPC
2 regulations or other law. This implies that the
3 underlying purpose of the code was to -- was to
4 prohibit conduct similar to that prohibited in the
5 Political Reform Act, government code section 87100,
6 and FPPC regulations, California Code of Regulations --
7 Regulations Section 18110.

8 The Political Reform Act and FPPC regulations
9 have fully developed body of law, including FPPC advice
10 letters that guide the conduct of public officials with
11 regard to conflicts of interest, which is another way
12 of stating the term advocacy of the private interest of
13 third parties. I strongly recommend the Board of
14 Ethics, with the assistance of the city attorney's
15 office, to use the FPPC's statutes, regulations, and
16 advice -- advice letters as their guide in interpreting
17 the city code.

18 If the conflict-of-interest rules are applied
19 to my factual circumstances, there's clearly no
20 violation. A conflict of interest requires a public
21 official to have a financial interest in the subject of
22 the decision in order for there to be conflict. No
23 such financial interest exists here. Further, there
24 isn't even a specific entity that was the subject of
25 the decision, rather it was a general policy decision.

1 Again, there is no conflict of interest. For these
2 reasons, the Board of Ethics should make no finding of
3 violation on this allegation.

4 For the second allegation, the second
5 allegation contends that I violated the city code
6 section 2.78.060N, which rates -- relates to the
7 violation of local law. Specifically the code provides
8 as follows, violations of federal, state, or local
9 prohibited. No public official of the City of
10 Riverside shall intentionally or repeatedly violate the
11 charter of the City of Riverside, the Riverside
12 municipal -- municipal code, or any established
13 policies of the City of Riverside affecting the
14 operations of local government or be convicted of
15 violation of any state or federal law pertaining to the
16 office which they hold.

17 The local law I was alleged to have violated
18 was the Sunshine Ordinance. The Sunshine Ordinance
19 provides for a 12-day notice requirement for the
20 posting of agenda items at the time of the alleged
21 violation. It allowed for an extension to 12 days
22 notice requirement if a finding was made that the
23 agenda item had urgency and thus required a hearing
24 sooner than 12 days, specifically the ordinance stated
25 at the time the alleged violation occurred.

1 So for item two, if the mayor or
2 councilmember, with the concurrence of another
3 councilmember, believe an item is urgent and the
4 failure to meet any additional notice requirements was
5 due, the need to take immediate action, which came to
6 the attention of the local body. The agenda was
7 posted. The Board of Ethics found that my decision,
8 which was made more broadly by the city council as
9 well, to make a determination of urgency in order to
10 hear an agenda item sooner than usually required 12-day
11 notice violated section 4.05.050 as the city council
12 found.

13 However, the determination of what is or is
14 not urgent is a discretionary policy decision with the
15 exclusive purview of the elected city council. The
16 Board of Ethics has no role to play in second guessing
17 the policy decisions of the council; therefore, the
18 board should not make a second finding of violation on
19 this issue.

20 I still have time for a conclusion later on,
21 right, or for a closing? I can't hear you, madam --
22 madam chair.

23 CHAIR KEEN: I did stop your time now. And
24 just so you know, you have 12 minutes and 48 seconds
25 for your closing.

1 COUNCILWOMAN PLASCENCIA: Okay. I will stop
2 there. Thank you.

3 CHAIR KEEN: All right. So you only used
4 about seven -- it's seven minutes and about 45 seconds
5 of your 30 minutes. So we're deferring the rest of
6 that time -- or ending the rest of that time, and
7 you'll have 12 minutes and 48 seconds for your closing
8 when you do give that.

9 Panel, hearing panel, does anybody have any
10 questions for Ms. Plascencia in regards to the
11 information she read? She was reading, if you were
12 following along, she was reading from her response that
13 starts on page 188 in our packets.

14 Keith -- or Member Nelson, I apologize.

15 MEMBER NELSON: No, that's fine.

16 CHAIR KEEN: Go ahead.

17 MEMBER NELSON: If this is correct, that they
18 -- that the ethics panel has no jurisdiction over city
19 council actions, why do we have an ethics panel? What
20 do we have jurisdiction over? I'm reading the ethics
21 panel, it talks about core values and to create a
22 government that is trusted by everybody. I can read
23 through them if you want. I could not find anywhere in
24 there where the city council self-appointed itself as
25 not being subject to citizen oversight. I -- I

1 couldn't find it.

2 Could you tell me where that is in the ethics
3 code, that was adopted by this city council, that
4 you're saying can't be questioned?

5 COUNCILWOMAN PLASCENCIA: I didn't say
6 actions. I said policy. We set policy.

7 MEMBER NELSON: Where -- where does it say
8 that in the ethics, that the -- the policy cannot be
9 questioned by the ethics panel? I -- I couldn't find
10 it. I'm -- I looked. I read it again three times
11 after we got your letter. I found where it tells us to
12 do oversight and where the city council, when it
13 created this, did specific -- specifically instructed
14 us to review decisions. I can't find where it
15 restricted it.

16 COUNCILWOMAN PLASCENCIA: Was that a
17 rhetorical question --

18 MEMBER NELSON: That's a --

19 COUNCILWOMAN PLASCENCIA: -- or a --

20 MEMBER NELSON: No, no. That's a -- that's a
21 question. That's an actual question. You've -- you've
22 cited in your letter and in your testimony or your
23 presentation that the ethics panel has no right to
24 review decisions, policy decisions, or any decisions of
25 the city council; and I can't find that in the ethics

1 code at all.

2 COUNCILWOMAN PLASCENCIA: What I said was that
3 we set policy and policy choices. You have
4 jurisdiction over ethics violations. This is a policy
5 -- policy decision that -- that Mr. Hunter happens to
6 disagree with.

7 MEMBER NELSON: But what is your reference to
8 that statement? You can't -- I mean, I can't just say,
9 I -- I have jurisdiction over X or Y. I need to --

10 COUNCILWOMAN PLASCENCIA: The government code
11 states that.

12 MEMBER NELSON: What government code?

13 COUNCILWOMAN PLASCENCIA: Our city's
14 government code.

15 MEMBER NELSON: Where? That's not -- because
16 I don't see anything of that in evidence.

17 COUNCILWOMAN PLASCENCIA: The complaint is
18 about a policy decision that --

19 MEMBER NELSON: I understand that.

20 COUNCILWOMAN PLASCENCIA: -- the council --
21 uh-huh. So you have jurisdiction over the ethics and
22 the Code of Conduct, but the city -- what this
23 complaint is about is a policy decision that the city
24 council --

25 MEMBER NELSON: Okay. I'll read.

1 COUNCILWOMAN PLASCENCIA: -- made.

2 MEMBER NELSON: To strive to ensure that all
3 public decisions are well informed, independent, and in
4 the best interest of the City of Riverside. The public
5 officials of the City of Riverside will encourage and
6 support research and information gathering from various
7 sources. They will seek to ensure that information
8 provided by the city government to the public is
9 accurate.

10 We're talking about ensuring public decisions
11 are well informed. Until this policy request to change
12 the -- the logo, putting another logo on the business
13 card, was presented to the city council, never was it
14 mentioned. So when was the time to ensure that all
15 public decisions are well informed, independent, and in
16 the best interest if not until you sat at the dais and
17 said, what I mean is I want to put a -- I want to put
18 the union logo on the business card?

19 I don't find it in the presentation to your
20 fellow councilperson to sign an urgent request. I
21 don't find it in what was provided to the citizens of
22 this city, that could come and object if they wanted.
23 We're not questioning the ability of the city council
24 to ultimately make a decision, but the decision was not
25 well informed or independent because there was no time

1 that the -- that the citizens, which is the most, in my
2 view, the most important part of this equation, could
3 have -- could air their support or resistance or
4 opposition. It wasn't even on the agenda that was in
5 the council chambers.

6 COUNCILWOMAN PLASCENCIA: Brandon --
7 Can I ask Brandon to weigh in on
8 jurisdiction, please?

9 CHAIR KEEN: City attorney Brandon,
10 Ms. Councilmember Plascencia is asking for you to weigh
11 in, in regards to Member Nelson's question of her.

12 MR. MERCER: Hello. Can you hear me?

13 CHAIR KEEN: We can hear you now.

14 MR. MERCER: Oh, okay. Yeah, the -- the --
15 the thing keeps freezing up. I -- I -- I don't really
16 understand Member Nelson's issue with -- with the
17 evidence or -- or the question. He's -- he wants a
18 cite to some sort of code?

19 CHAIR KEEN: You're muted --

20 MEMBER FORD: You're muted.

21 CHAIR KEEN: -- Member Nelson.

22 MEMBER NELSON: The entire defense is based on
23 a presumption that once the city council makes a policy
24 decision -- policy decision, it cannot be questioned,
25 it is not subject to review. And it says -- part of

1 the ethics panel is talking about to strive to ensure
2 that public officials are adequately -- adequately
3 prepared. So we're saying that because the city
4 council made a decision that we didn't -- that we may,
5 or the prior hearing panel, viewed as not being
6 properly agendized and disclosed that -- and -- and --
7 and on top of that, this thing is where the city
8 council says, once two of us have signed a Sunshine
9 Ordinance, that makes it urgent or once we've made a
10 policy decision -- policy decision, it's not subject to
11 review.

12 And I'm not seeing that in the ethics code or
13 anywhere else.

14 MR. MERCER: Now, I -- I believe, and -- and,
15 you know, I don't have the -- the charter in -- in
16 front of me, I -- I believe the powers of the -- of the
17 ethics board come directly from the charter, and it
18 would be charter section in the 400 series, perhaps
19 charter section 406.

20 MEMBER NELSON: Okay. Because then we'll
21 change the subject since -- we'll change the question a
22 little bit since we really shouldn't have the city
23 attorney testifying. Where in the evidence package is
24 there any citation to what you're saying?

25 COUNCILWOMAN PLASCENCIA: What I was trying to

1 clarify was that -- I -- I -- I feel like we're --
2 we're going in circles. The jurisdiction of the
3 ethics, you -- when -- when community members or
4 commissioners disagree with policy that the city
5 council sets, you can come to public comment to -- to
6 disagree, to give your comment about that. The ethics
7 process is when there's a violation of the ethics code.
8 There is no violation of the ethics code because the
9 city council approved this. This was a policy decision
10 that is not within your scope.

11 And I don't know how else to -- to say that
12 in -- in different --

13 MEMBER NELSON: I --

14 COUNCILWOMAN PLASCENCIA: -- languages --

15 MEMBER NELSON: Well --

16 COUNCILWOMAN PLASCENCIA: -- like, in
17 different ways. I don't -- I don't know. I'm sorry, I
18 didn't mean different languages, in different ways to
19 -- to point out that it's -- it's not the authority of
20 the commission -- this commission to change or overturn
21 policy that the council sets.

22 MEMBER FORD: You know --

23 COUNCILWOMAN PLASCENCIA: And so when
24 constituents --

25 MEMBER NELSON: But I don't see --

1 COUNCILWOMAN PLASCENCIA: -- disagree --
2 MEMBER NELSON: Well, I --
3 CHAIR KEEN: Hold on, guys, let her finish.
4 COUNCILWOMAN PLASCENCIA: -- they come to
5 public --
6 CHAIR KEEN: Let her finish.
7 COUNCILWOMAN PLASCENCIA: -- comment --
8 MEMBER NELSON: I just -- I just --
9 CHAIR KEEN: Let Ms. Plascencia finish --
10 MEMBER NELSON: And I --
11 CHAIR KEEN: -- her statement, please.
12 MEMBER NELSON: And I could say that --
13 MEMBER FORD: But --
14 MEMBER NELSON: -- I -- I'm giving myself this
15 power that isn't in the -- in the charter, that isn't
16 in the -- that isn't in the code, that isn't in the
17 duties and powers, that isn't in the scope, that isn't
18 in the purpose, that isn't in the core values.
19 COUNCILWOMAN PLASCENCIA: What power?
20 MEMBER NELSON: All I'm asking is, you're
21 quoting what you say is in the city code and ordinance,
22 and I'm saying, where is that in the evidence package.
23 COUNCILWOMAN PLASCENCIA: That's why I asked
24 Brandon to talk about the city ordinance. So --
25 MEMBER NELSON: That's not --

1 COUNCILWOMAN PLASCENCIA: -- the council, we
2 are elected by the people of Riverside to set policy.
3 That's what I'm trying to differentiate.

4 MEMBER FORD: Hi, Taylor.

5 CHAIR KEEN: Hi, guys.

6 MEMBER FORD: Taylor, this is --

7 CHAIR KEEN: Let's --

8 MEMBER FORD: This is -- this is --

9 CHAIR KEEN: Hold on --

10 MEMBER FORD: -- Champagne.

11 CHAIR KEEN: -- one second. One second,
12 everybody. Let's try and make a huge effort to not
13 talk over each other. If we need to, I can call on
14 people as they say speak. I know Ms. Plascencia was
15 trying to speak, and we did speak over the top of her.
16 And let's give due respect to everybody as they're
17 speaking.

18 I apologize for that, Councilmember
19 Plascencia.

20 Member Ford, you do -- you have had a
21 comment so --

22 MEMBER FORD: Right.

23 CHAIR KEEN: -- go ahead.

24 MEMBER FORD: You know, I think we can go back
25 and forth. At this point, I feel like I don't think

1 that she probably is the best person to define the
2 Board of Ethics and what we have jurisdiction over. So
3 I think it's probably best to move on. I'm going to --
4 I -- I think that Tiffani has a comment she'd like to
5 make, but I understand what Keith is saying, but I'm
6 going to defer this to Tiffani. I think this is a
7 conversation that we can probably wrap --

8 CHAIR KEEN: Member --

9 MEMBER FORD: -- up.

10 CHAIR KEEN: -- Graham.

11 Thank you.

12 Member -- Board Member Graham.

13 MEMBER GRAHAM: And I think it's probably
14 something that we can wrap up, but if I'm understanding
15 what Member Nelson says is it's, councilwoman is, like,
16 making a point if she's saying, like, there's a
17 specific section that she's referring to; but she can't
18 identify that section. And so, like, you want us to be
19 able to make a clear decision, but you're not telling
20 us what to look at.

21 MEMBER FORD: But she's arguing that this is
22 outside of our scope, we do not have jurisdiction on an
23 item that council agrees to. And I think Keith is
24 making the point, why is there a board if we are not
25 allowed to make comment or adjudicate complaints that

1 come to us in regards to the action of the city
2 council. So I think he is in with -- he's within his
3 scope, and I don't think that Ms. Plascencia is well
4 versed on actually the scopes and duties and
5 jurisdiction of the Board of Ethics. So I have nothing
6 to say --

7 COUNCILWOMAN PLASCENCIA: I respectfully --

8 MEMBER FORD: -- more about that.

9 COUNCILWOMAN PLASCENCIA: -- disagree,
10 Commissioner Ford. However, I think we just need to
11 move on. I -- I submitted a response that was very
12 thorough and I'm comfortable with, and so we can move
13 on if you'd like.

14 CHAIR KEEN: I think it's important to note at
15 this point, too, based on this conversation, is that
16 Member Nelson is reading directly from the Code of
17 Ethics and is not making any interpretations or
18 inferences of it. He's literally reading directly from
19 what our scope actually is. Does anybody else have any
20 questions regarding the response in the packet that
21 Ms. Plascencia presented?

22 I -- I think I have one thing that I would
23 like, I guess, to state or ask is that part of your
24 response is in regards obviously to there not being a
25 violation of the Sunshine Ordinance as it stood at the

1 time that this happened, not in its current state. So
2 on page 192, and it's in this packet on multiple pages,
3 but it is in your response on page 192, is that you're
4 saying you weren't in violation of the Sunshine
5 Ordinance because you had the second signature; but it
6 does state that the need to take immediate action,
7 which came to the attention of the local body after the
8 agenda was posted.

9 And we have -- and in -- we have in multiple
10 places that you knew about this topic prior to that
11 agenda being posted, so there wasn't necessarily a
12 reason to use the Sunshine requirements to get it onto
13 that agenda, and that's where it then falls back into
14 the Code of Ethics and the Board of Ethics's scope and
15 that making sure that policy is being fairly vetted.
16 Because it -- in your own packet, it shows that you
17 knew about the bug prior to the posting timeline for
18 that agenda, but it wasn't in there.

19 And I guess that's not really a question.
20 I'm just making a statement. I'm just -- what I'm
21 seeing in your response and in the entire evidence
22 packet is that there was a violation of the Sunshine
23 Ordinance because you knew prior to that agenda posting
24 that you wanted to discuss this.

25 COUNCILWOMAN PLASCENCIA: I'm sorry, were you

1 asking me that?

2 CHAIR KEEN: Is -- is that -- are you saying
3 you didn't know prior to the timeframe? You didn't
4 know prior to the --

5 COUNCILWOMAN PLASCENCIA: Where -- where --

6 CHAIR KEEN: -- posting time?

7 COUNCILWOMAN PLASCENCIA: I'm sorry, where --
8 what page did you say you saw that I wrote --

9 CHAIR KEEN: No, I didn't -- I didn't say --
10 if I said wrote, I apologize. That isn't the word I
11 meant to use. But in the -- in the transcripts, you
12 discuss this prior with Zelinka, Al Zelinka; and it's
13 in the video that you talked about, and I think that
14 video was from December 3rd, which puts us 14 days
15 prior to the agenda-posting timeline for that
16 December 17th meeting. So I'm just having a hard time
17 with it not being a Sunshine Ordinance violation
18 because this didn't come up after that 12-day window,
19 it came up well before, and that's where I'm having a
20 hard time.

21 I'm trying to see how you're saying it wasn't
22 a --

23 COUNCILWOMAN PLASCENCIA: I had --

24 CHAIR KEEN: -- violation when the packet says
25 it was.

1 COUNCILWOMAN PLASCENCIA: I don't -- I don't
2 see -- read it that way. So I met the letter of the
3 law and did not violate the Sunshine Ordinance. And I
4 just wanted to quickly clarify that the complaints that
5 this hearing -- what's this -- what's in your
6 jurisdiction is -- is within the ordinance of 2.78.060,
7 which I did reference that. The complaints fit in with
8 that, with -- with that jurisdiction and under the
9 prohibited conduct only.

10 So I'm not saying that you don't have value
11 or, you know, there's no purpose of this committee, of
12 course there is; but I -- I was trying to distinguish
13 that. And so under 2.78.060, that's what the
14 jurisdiction of this body is. So I just wanted to
15 clarify. That's -- that's it. Thank you.

16 CHAIR KEEN: Champagne -- Member Ford.

17 MEMBER FORD: Hi. Thank you. Thank -- and
18 we're -- and we're getting it together, Taylor.

19 CHAIR KEEN: We are.

20 MEMBER FORD: Thank you very much. We're not
21 overtalking each other. We are a work in progress.

22 My issue is with the use of the union logo.
23 We all come from varying backgrounds, even
24 professionally. And so as a person who sits on a
25 union, I'm actually a union steward, I understand the

1 importance of that bug; and so for it to kind of come
2 out today and appears that it was just kind of
3 arbitrarily placed on a business card, it's too
4 elementary to me.

5 When a person, who occupies a -- when a
6 person, who occupies an office, and this is obviously a
7 nonpartisan position, puts a bug on a union card --
8 puts that union logo on a card, it sends a message.
9 And so I think that's something we definitely want to
10 think about. And I think just the notion that -- that
11 was just kind of, like, haphazardly just placed or that
12 it doesn't hold any significance, that is just really
13 insulting to our intelligence. That's just my only
14 comment about the union, yeah.

15 CHAIR KEEN: So we have completed -- if there
16 are no further questions regarding Ms. Plascencia's
17 presentation, we would be moving into closing
18 statements.

19 MEMBER NELSON: I do have one last question.
20 There was --

21 CHAIR KEEN: All right.

22 MEMBER NELSON: There was -- there was other
23 points in her letter that she wrote, or her response.
24 Are -- are those being introduced or --

25 CHAIR KEEN: I believe they are -- they are a

1 part of it because they are a part of our packet and
2 they're a part of the public record for --

3 MEMBER NELSON: Okay. Then --

4 CHAIR KEEN: -- this hearing.

5 MEMBER NELSON: Then -- then I do have some
6 questions on that since -- she wrote this letter. She
7 was talking about represented by counsel.

8 And you quoted cases from 1932 and 1970. Did
9 -- do you have any opinion on the case in 1973 on
10 Brooks versus Small Claims, which was adjudicated,
11 talking about not having an attorney represent you at a
12 small claims hearing?

13 COUNCILWOMAN PLASCENCIA: No, I don't have an
14 opinion on that.

15 MEMBER NELSON: Okay. So when you reviewed --
16 when you reviewed your cases for this letter, did you
17 review -- review the later Supreme -- or California
18 Supreme Court decisions about representation? I mean,
19 you're referencing two that were -- that are earlier.
20 Did you review -- review the ones after that as you
21 prepared this?

22 COUNCILWOMAN PLASCENCIA: I -- no, I did not.
23 I'm sure there are a ton of cases. I did not. I -- I
24 did not.

25 MEMBER NELSON: Okay. Did you -- did you

1 understand you could have had -- you can have an
2 attorney with you and you can have an attorney help you
3 prepare, but just not represent you? That was not a
4 decision made by the ethics board, but by the city
5 council, itself.

6 COUNCILWOMAN PLASCENCIA: I understand the
7 process and the procedures that are in place.

8 MEMBER NELSON: Okay.

9 COUNCILWOMAN PLASCENCIA: Thank you.

10 MEMBER NELSON: Uh-huh.

11 CHAIR KEEN: Thank you, Member Nelson.

12 Are there any further questions for
13 Ms. Council -- Councilmember Plascencia specifically in
14 regards to her information in the packet or what she
15 verbally read from it? All right. If there are no
16 further questions for Councilmember Plascencia, we
17 would be moving onto closing statements. I do have the
18 time written down for both of you guys.

19 So, Mr. Hunter, you have 11 minutes and
20 49 seconds for your closing statements.

21 Councilmember Plascencia, you have 12 minutes
22 and 48 seconds for your closing statement remaining
23 leftover from your guys' opening statements?

24 MR. HUNTER: Do I get a chance to -- she
25 offered testimony. Do I get a chance to cross?

1 CHAIR KEEN: So you would have an opportunity
2 -- I apologize, I missed this section. You would have
3 an opportunity to present any rebuttal evidence. It
4 would be limited to matters raised in the respondent's
5 case specifically.

6 MR. HUNTER: Okay. I can ask questions on
7 cross, correct? She -- did -- she's -- she's -- she's
8 stating that her testimony -- she just gave testimony.
9 She said that that's evidence. If she was saying that
10 it wasn't argument, it was actual evidence, so I should
11 be able to question everything she presented right
12 there.

13 CHAIR KEEN: City attorney Brandon can
14 clarify, but the way we proceeded earlier in this
15 hearing is that she covered evidence. She was not --
16 it was not a witness testimony. She was specifically
17 providing the evidence that she has in the packet.

18 Am I doing this correctly, Brandon?

19 MR. MERCER: Well, she was giving an opinion
20 regarding the proceedings, so I think cross-examination
21 is proper.

22 CHAIR KEEN: All right. Thank you for
23 clarifying. I appreciate that.

24 Mr. Hunter, so you do have the ability then
25 to cross-examine, if you have rebuttal evidence,

1 specifically limited to any of these matters raised,
2 you are able to give that right now as well.

3 MR. HUNTER: Okay, perfect. I only have a few
4 questions. I'll be very short.

5 BY MR. HUNTER:

6 Q Ms. Plascencia, you had the ability at the
7 prehearing conference to dismiss this complaint based
8 upon technicalities, correct? Just like I did.

9 A Can you say that again? I didn't hear you.

10 Q You had the -- you had the power and ability
11 at the prehearing conference to offer up all your
12 technical problems with the proceedings and dismiss the
13 whole complaint on a technicality, which seems to be
14 half your letter, at least, if not two-thirds are
15 technicalities why we shouldn't proceed with this
16 hearing; but we are proceeding with this hearing
17 because you didn't enter them at the time of the
18 prehearing conference, correct?

19 A No -- no response. I -- I don't even know
20 what you're asking.

21 Q Did you have the ability to make your
22 technical objections to proceeding with this hearing at
23 the time of the prehearing conference?

24 A I have no response. I --

25 Q Okay. That's fine. Second question is, you

1 said that people could have come to the -- the -- the
2 meeting to disagree with the -- the union bug being on
3 the business cards, but yet they had no notice of what
4 was going to be discussed, correct?

5 A You were breaking up. I'm sorry.

6 CHAIR KEEN: Mr. Hunter, you were breaking up.

7 MR. HUNTER: Sorry, I'll ask it again.

8 BY MR. HUNTER:

9 Q In -- in your testimony, you stated that
10 people could come to the hearing and objection to the
11 union bug, however, the -- the first mention of a union
12 bug to the public was at the meeting, itself. So if
13 you weren't present at the meeting, how could you have
14 objected? You wouldn't have known about the union bug,
15 correct?

16 A I -- I don't have a response to that.

17 Q Question number three, you sit on the
18 legislative body of the City of Riverside. Have you
19 made any attempt in the past year and a half to remedy
20 any of the legal issues or concerns that you brought up
21 in your defense?

22 A I -- I don't even know what that means. I
23 have no response to that.

24 Q Okay. So let me -- let me rephrase it
25 because that might be a little bit technical, so I'll

1 -- I'll try to rephrase that. You sit on a -- on the
2 city council, which is the -- has the ability to change
3 the ethics code, if it wanted to, any ordinance,
4 resolution, et cetera, et cetera, in the City of
5 Riverside. So you have that power, correct?

6 A The --

7 Q Do you have the power to change -- to change
8 -- to change ordinances and resolutions, correct,
9 including the ethics code?

10 A The city council. I do not. The city
11 council does.

12 Q Okay. So you're part of a body. You can put
13 that on the agenda though, correct?

14 A I can't -- I can't hear you.

15 Q Can you put things on the city council agenda
16 for discussion like you did --

17 A All councilmembers put things on the city
18 council agenda.

19 Q Have you put anything on the agenda --

20 A And staff.

21 Q Have you put anything on the agenda in the
22 past year and a half or at least -- at least the last
23 year since this -- this complaint was lodged to fix
24 what you see in your letter that you presented just
25 recently to this commission, this Ethics Commission or

1 board, I forget what it's called, have you put anything
2 on the agenda to fix what you say are all these, you
3 know, terrible problems with the ethics code?

4 A I don't have an opinion on that right now.

5 Q And would you be open to putting on, maybe --
6 I -- I -- I have a business. Would you be open to
7 putting my -- my business logo on your business card?

8 A That's irrelevant. No response.

9 Q So -- so would you be open to putting anybody
10 else's logo, private, you know, anybody else's --

11 A That's a third-party interest, Jason. You
12 know that.

13 Q So you're admitting that it's a third-party
14 interest to put a logo on your --

15 A Your personal business, for sure.

16 Q So -- so -- so the print shop, it -- the
17 print shop who printed those cards, are they -- are
18 they a personal -- somebody's personal business?

19 A I have no opinion, Jason.

20 MR. HUNTER: Okay, all right. I'll -- I'll --
21 that concludes my remarks. Thank you. Or -- or cross.
22 I'm finished.

23 CHAIR KEEN: Oh, I was muted. I apologize.
24 Thank you, Mr. Hunter and Ms. Plascencia.

25 We are now ready to move on to closing

1 statements. Mr. Hunter will proceed first, and the
2 time that is reserved for you, again, is 11 minutes and
3 49 seconds. I do have a timer set for that specific
4 amount of time. Whenever you are prepared to begin
5 your closing statement, we will start your time. I
6 think you're muted. If you -- you're muted,
7 Mr. Hunter.

8 MR. HUNTER: I'm -- I'm sorry. Ten demerits
9 for me. I'm ready to proceed.

10 CHAIR KEEN: I just did it. Now we're even.
11 All right.

12 MR. HUNTER: So I want to go over a few points
13 that the -- this panel really needs to kind of
14 understand when judging and -- and trying to make a
15 decision on this complaint, and then I'm going to go
16 into sort of the spirit of the whole ethics code. And
17 I think Mr. Nelson brings up some really great -- great
18 points, which is -- are that, what's the point of the
19 ethics code if we can't determine whether policies or
20 decisions made by the ethics -- by the city council,
21 either as a group or individually, in this case it's
22 individually -- that could have brought additional
23 ethics complaints, a bunch -- a bunch of them, but
24 quite frankly, that -- that takes too much time.

25 Some members of this committee were on the

1 ethics complaints I filed three, four years ago. Do
2 you want to sit through six, seven different ethics
3 complaints when the group makes a bad decision?

4 Because a lot of people complained about that at the
5 time. So I decided to just kind of spare this group
6 doing that.

7 So anyway, I wanted to go to point number
8 one. We're not debating legal issues here. We're
9 debating ethical issues. And precedents don't matter.
10 Like, so if somebody else in another city puts a -- the
11 union bug on a card and they make a bad decision, so
12 what. I mean, it's kind of like saying, if somebody
13 jumped off a building, would you, too. It doesn't mean
14 it's a good decision, it's an ethical decision. They
15 may not have an ethics code. We have one here, okay?

16 And do you know who has jurisdiction over
17 that ethics code? You guys do. And do you know who
18 granted you jurisdiction over the ethics code? The
19 council, okay? And the same council -- and Ms. --
20 Ms. Plascencia, if she doesn't like it, she could
21 agendize to take that away. It's within her power and
22 the council's power, right?

23 So it's not the, you know, who -- it's not
24 the FPPC. It's not the DA. It's not the FBI. It's
25 not the ASPCA, okay? It's not even the council who has

1 jurisdiction over the ethics code. You do and they
2 granted it to you and now they're -- they're -- we've
3 got one member who's upset because you have that
4 jurisdiction and that authority. And so what.

5 Ms. Plascencia had the ability to dismiss
6 this complaint at -- on technicalities at the
7 prehearing, which is, like, two-thirds of this most
8 recently submitted letter. That should have been
9 presented at the prehearing. All of that is moot.
10 That -- that opportunity has passed, right?

11 Let me see, the union bug is in-your-face
12 advocacy. It is a registered trademark, at the very
13 minimum, representing the print shop who printed them.
14 It's a registered trademark, right? It's the
15 definition of advocacy -- advocacy. I couldn't hand
16 out business cards with that trademark. I'd get sued
17 probably.

18 Okay. So I do think that it's very important
19 to remember that I put this complaint together with
20 hundreds and hundreds of pages of (indiscernible)
21 called evidence. What Ms. Plascencia responded with
22 and Mr. -- Mr. Nelson clearly pointed out was that
23 there was no evidence leading back to -- to
24 substantiate the opinions -- opinions of
25 Ms. Plascencia, it was pure conjecture, which is why I

1 said it was argument. And I -- I think somebody
2 admitted that it was argument later on.

3 You know, you have -- you have to bring your
4 -- your opinions with backup information, like I did.
5 And I spent a lot of time, days upon days upon days,
6 perfecting this evidence package -- package.

7 Number -- number seven, I -- I -- I don't
8 want to reiterate too much. I guess it's -- it's my
9 closing. I asked Ms. Plascencia this as well, but,
10 quite frankly, there was no way for a member of the
11 public to come and disagree with the union bug. It --
12 it wasn't on in her items for future consideration
13 request. It wasn't on the agenda. It came up for the
14 very first time at that hearing. And quite frankly, I
15 happened to be there. I was very lucky. Many other
16 people from the public had no opportunity to present.

17 I always say, you know, in -- in case anyone
18 wants to offer this as a defense, the buck has to stop
19 with the council. They can't hide behind staff. They
20 can't hide behind the city attorney, the city clerk,
21 the city manager, anybody. It stops with them. They
22 are the ones who are ultimately responsible for their
23 own decisions.

24 I always say another thing, has Gaby made any
25 -- excuse me -- Ms. Plascencia made any attempt to

1 remedy the legal issues, as a sitting member of the
2 legislative body in the City of Riverside; and the
3 answer is no. So her arguments are moot. Her remedy,
4 if she doesn't like the process, is to sue the city
5 like everyone else from the general public would have
6 to do. There's no special treatment here.

7 This is not about -- yeah, I want to bring
8 this point up, it's not about unions, per se. You
9 know, it could be that somebody put American
10 Association of Retired People, it could be Eat At
11 Joe's, it could be, you know, Save the Whales; I would
12 have still lodged the ethics complaint. It wouldn't
13 have mattered to me. I would have, because I -- I
14 think we shouldn't be advocating in the -- interest of
15 -- of third parties.

16 I want to go briefly into the council's
17 remarks. And I think I've covered most of it. And I
18 -- I don't -- what I don't want to do is get tripped
19 up, I feel like not only am I -- Ms. -- is Ms.
20 Plascencia on defense, but the entire city council is
21 on defense as well and mention maybe one or two things.
22 You know, or maybe not. No, I don't think I need to
23 put anything on there.

24 So I'll go to my -- my immediate close.
25 Those are the points I wanted to bring up, and I'll go

1 to my close, which -- how many more minutes do I have
2 left?

3 CHAIR KEEN: Six and a half.

4 MR. HUNTER: Okay, perfect. Plenty of time.
5 So let me talk about the core values. Because why do
6 we have an ethics process? I've been an intimate part
7 of -- of -- of crafting it, right? And I think it's
8 important that we have one. And a lot of people put a
9 lot of time into kind of just describing the philosophy
10 of the ethics code. And -- and -- and some of this has
11 been read already, but I want to read -- read it again
12 because it's really important.

13 It's to strive to create a government that is
14 trusted by everyone. The public officials of the City
15 of Riverside shall aspire to operate the city
16 government with exercise -- and exercise their
17 responsibilities in a manner which creates trust in
18 their decisions and the manner of delivery of the
19 programs through the local government. Public
20 officials shall aspire to create a transparent
21 decision-making process by providing easy access to --
22 to all public information without actual or potential
23 conflicts between their private interests and their
24 public responsibilities.

25 Public officials shall aspire to make

1 themselves available to the public, the people of the
2 City of Riverside, to hear and understand their
3 concerns. They shall aspire to make every effort to
4 ensure that they have accurate information to guide
5 their decisions and to share -- share all public
6 information with the community to ensure the community
7 understands the basis of the officials' decisions.

8 Does that sound like anything that happened
9 here? I mean, anything at all, the whole process
10 between how it was put on the agenda to what's being
11 done now handing out business cards with a registered
12 trademark on them. Secondly, in the core values, to
13 strive to make decisions that are unbiassed, fair, and
14 honest. The public officials of the City of Riverside
15 shall aspire to ensure that the decisions are
16 unbiassed, fair, and honest. They shall strive to
17 avoid participation in all decisions which create a
18 real or perceived conflict of interest and to disclose
19 any personal interests that could be perceived in
20 conflict with fair and impartial exercise of their
21 responsibilities.

22 Does that sound, once again, like anything
23 that was done here in this case? I could go on and on.
24 There's -- there's several others, I think, that
25 involve this case, but it really comes down to this,

1 there's two things, right; did -- were -- were the
2 Sunshine Ordinances violated, and is this advocacy of
3 the private interest of -- of third parties, right?

4 So let's say -- you know, the city manager
5 didn't even think that this issue was -- was urgent.
6 He recognized the need for further discussion. He also
7 stated that there's -- this was never about talking
8 about insignia in general terms, but it was
9 specifically about the union bug, okay? They -- what
10 the alternative would have been is that Ms. Plascencia,
11 heaven forbid, would have had to have used a regular
12 business card for a month before she took it properly
13 in front of the council and -- and had a debate in
14 front of the public who could have attended; but she
15 didn't do that, right? She rammed it through on -- on
16 an expedited basis.

17 Secondly, how can anyone -- okay. So that's
18 the Sunshine Ordinances, right? There was no -- this
19 -- and she knew about this issue well before she placed
20 it on the -- the urgent agenda.

21 So secondly is, how can anyone, quite
22 frankly, with a straight face, say adding a logo with a
23 registered trademark on it isn't the exact definition
24 of advocacy on a private interest of third parties,
25 okay? So here's my ask, and I -- and I -- I hope that

1 the -- the -- the -- the -- the panel will consider it
2 a little bit more seriously this time around, is that
3 I'd like obviously to get the sustained complaints; and
4 I'd also like perhaps to go a little further at this
5 juncture, which is to make a recommendation to -- to
6 the council to specifically place a restriction on
7 placing any insignia on city collateral that's not the
8 City of Riverside's, right? Perhaps maybe to file a
9 complaint with the FPPC and a suggestion to the council
10 to destroy all city collateral currently with the union
11 bug on them.

12 I think that we're -- we're opening ourselves
13 up to a tremendous amount of liability here. Because
14 if we're willing to accept that insignia, I think we
15 have to accept all insignias. And all it's going to
16 take is one person, maybe Jason Hunter, to make an
17 official ask and be turned down, and at which point in
18 time, I think, you know, we're going to have a fairness
19 doctrine in play here.

20 So I -- I appreciate and thank you very much
21 for everyone's time. I wish we didn't have to do this
22 for a second time, quite frankly. I wish we could have
23 just discussed the limited issues that the city council
24 gave us, but it wasn't the option you were given, it
25 wasn't the option I was -- I was given.

1 So anyway, integrity is important. Public
2 confidence in the system is important. You know, the
3 unions here are the largest special interests in the
4 City of Riverside, okay? And, you know, they're on
5 every single -- they're discussed on every single
6 agenda pack -- package, so this is an important item to
7 the general public. And I think -- I hope you guys
8 come to the correct conclusion here, and I hope this
9 time the -- the council has the wisdom to not remand it
10 and know their role in the process.

11 So I thank you very much this evening. I'm
12 available for any questions. Thank you.

13 MR. HUNTER: I rest.

14 CHAIR KEEN: Thank you, Mr. -- Mr. Hunter.

15 Councilmember Plascencia, you will have your
16 opportunity for a closing statement now. You have
17 12 minutes and 48 seconds reserved. Let me reset my
18 timer for your specific amount of time. So I am ready
19 with your time whenever you are prepared to begin.

20 COUNCILWOMAN PLASCENCIA: Thank you. The core
21 values that the -- that Commissioner Nelson read are
22 not in the section of what they can enforce. What they
23 can enforce is specifically not section 2.78.060, that
24 section does not allow the Ethics Commission to enforce
25 policy decisions by the council. The two allegations

1 do not meet the enforcement ordinance. They are policy
2 choices, and they are not subject to ethics review.

3 I appreciate your time, and I hope that you
4 have really thought about what the council said the
5 last time they found the errors and think about that
6 when you vote today. Thank you.

7 CHAIR KEEN: Thank you, Councilmember
8 Plascencia.

9 All right. That concludes the closing
10 statements by both the complainant and the respondent.
11 At this point, we will be opening it back up -- oh, I
12 thought I was muted. I apologize. At this point we
13 will be opening it back up for public comment. Were
14 there any public comments on the line already? If not,
15 we will give it a minute or two for any public comments
16 that are coming in.

17 All right. Currently the phone lines are
18 open. It sounds like they have been open, and there
19 are no callers on the line right now. Because there is
20 a little bit of a delay, we will give it about 60
21 seconds if any public commenters or public callers do
22 want to give a comment. All right. It doesn't look
23 like we're getting any callers calling in. Is that
24 accurate? We do have one caller. We will take that
25 call. They're being cued in.

1 MS. MCKEITH: Hi, good evening. Malissa
2 McKeith, Ward 2. First, I -- I want to say that in my
3 ten years of being here, nobody has advanced trance --
4 I want --

5 CHAIR KEEN: (Indiscernible) caller calling
6 in?

7 MS. MCKEITH: No. I am here.

8 CHAIR KEEN: Is that accurate?
9 (Indiscernible) caller (indiscernible) you're being
10 (indiscernible).

11 MEMBER FORD: Taylor, you might be right, in
12 person.

13 CHAIR KEEN: I know.

14 MEMBER FORD: (Indiscernible).

15 CHAIR KEEN: Caller Malissa, I know you're
16 trying to call in. There is a delay between what you
17 hear and what's actually happening. We could hear you,
18 if you would like to try calling in again. We did hear
19 the start of your comment.

20 Just a moment. IT is asking us to hold on a
21 second.

22 MS. BAKER: Okay. This is Linda Baker. I
23 called earlier. I'm from Ward 6. I've listened to
24 this whole meeting with great interest. I've known
25 Gaby for -- since she was a student at Norte Vista, so

1 I have great respect for her; but I totally -- I
2 totally do not agree with what she's saying. And I --
3 I feel very strongly that the ethics committee does
4 have the right to check and -- and challenge policies
5 made by city council.

6 Ethics is very important to me. I know the
7 feeling of right and wrong. And I definitely feel that
8 we should not have a union bug on anything that has
9 anything to do with the city council. And I do feel
10 like she violated the -- the Sunshine Ordinance. And
11 that's all I need to say. Thank you.

12 CHAIR KEEN: Thank you for your comments,
13 caller.

14 We do have more callers on the line. And,
15 Malissa, if you are hearing this, you can call to give
16 that comment again.

17 COUNCILWOMAN PLASCENCIA: Are they supposed to
18 press something, Taylor? Do you know?

19 CHAIR KEEN: No. I -- it -- it sounded like
20 that the first caller had her -- had the sound still
21 on, and there is a lag between what we're saying and
22 what you can actually hear through Engage Riverside.
23 I'm hoping that she calls again.

24 COUNCILWOMAN PLASCENCIA: She said she's on,
25 but someone needs to let her in. I don't know what

1 that means.

2 CHAIR KEEN: So IT says we do have a few
3 callers on the line. And there is like a 30- to
4 60-second lag between when they cue them up and when
5 they get the beep to start speaking.

6 MS. MATEJA: This is Sharon Mateja, Ward 6.
7 My comment, I'm going to go a little fast because I
8 think you've heard most of this already, the city
9 stationery represents the city, not special interests.
10 The stationery is paid for residents. The city had a
11 branding manual that was arbitrarily modified to
12 accommodate the desires of one, perhaps two,
13 councilpersons. And why? Our -- our elected
14 representative --

15 Okay. I'm going to go on. Anyway, we
16 shouldn't play favorites. We shouldn't endorse
17 products. We shouldn't endorse businesses or unions.
18 Our city should represent only the city and only the
19 residents. The union bug, it's a trademarked logo. It
20 has a strong meaning. Now, that meaning might not have
21 anything to say to people that aren't aware of it, but
22 those people who understand what that logo is, it has
23 the strong meaning. I think it's inappropriate to put
24 it on our city stationery.

25 In this regard, I also support what

1 Councilman Conder had recommended. If it should go
2 through and this is placed on stationery of a
3 councilperson, that councilperson should recuse
4 themselves from any votes and shouldn't be allowed in
5 any of the meetings having to do with the union issues.

6 Tonight's hearing on the Sunshine Ordinance,
7 I think it was clearly demonstrated it was violated.
8 And I just don't think I have much to say about it
9 because it was so evident just listening to what both
10 parties had to say. Our councilperson knew the law.
11 She knew the rules. She had been counseled. She'd
12 gone through training. This was put on last minute,
13 and most of us would have wanted to weigh in on that.
14 And we didn't have the opportunity. We weren't
15 advised. Our Sunshine Ordinance was violated. And I
16 think there should be remedy for that.

17 Thank you very much. That's all I have to
18 say.

19 CHAIR KEEN: Thank you, caller.

20 We do have more callers in the queue, I
21 believe. Yes, I've got confirmation there are more
22 callers in the queue.

23 MS. FORSTER: Okay, okay. Thank you very
24 much. My name is Christine Forster, and I am Ward 2.
25 I would like to echo the comments of Linda Baker and

1 Sharon Mateja. I totally believe that violations have
2 occurred in ethics and that we should not be putting
3 logos on business cards. I think Jason Hunter made an
4 excellent presentation, very clearly laid out the
5 support of his -- his motion and his complaint. And I
6 thank you.

7 CHAIR KEEN: One more caller in the queue.

8 MS. MCKEITH: Hi again, everybody. Well,
9 it's late. Malissa McKeith, Ward 2. First, I started
10 out by saying that in all the time I'd been in
11 Riverside, there is no one I have admired more for
12 trying to make our government more accountable and
13 transparent than Jason. And nine times out of ten, I
14 agree with Jason wholeheartedly and cheer on what he's
15 doing. And even in this instance, I think his bringing
16 the complaint and being so dogged, as is his way,
17 exposes a lot of shortcomings to how this commission
18 works, the fact we need a process that is, again, more
19 professionalized, maybe have a judicial officer of
20 sorts oversee it rather than have lay people trying to
21 figure out who has jurisdiction over what.

22 On the merits, however, when the city council
23 agreed and the city attorney agreed that the item was
24 correctly agendized and when they voted for the union
25 bug, as much as I disagree with that decision, and I

1 do, I think it was the wrong decision, it was a
2 decision of the city council. And if it was unlawful,
3 the remedies that Jason or the public had was to file a
4 complaint with the FPPC or file a lawsuit.

5 The scope of what the ethics committee would
6 appropriately do, would be, for example, if there was
7 evidence that Gaby had taken a bribe from the printing
8 shop, if she had intentionally deceived the city
9 attorney or council or what was going on to go onto the
10 urgency calendar. Facts like that would bring this
11 within the ethics code. This has been to the city
12 council. The city council held that you abused your
13 discretion because this was outside of your purview to
14 weigh in after they had made a policy decision.

15 When they remanded it back to you, absent
16 facts along the lines of what I just described, the
17 only course of action is for you to dismiss the
18 complaint. Jason did not include any new evidence of
19 wrongdoing on Gaby's part. Sure, does Gaby support
20 unions, what a shock to everybody. Does Chuck Conder
21 support development? Yes. All of our politicians have
22 certain leanings. But when the council five -- votes 5
23 to 2 on something, that's the council.

24 So if we have a problem with what the council
25 did, then they did something unethical; but frankly,

1 that wouldn't be appropriate for this committee either.
2 I really invite you to come to charter. I think this
3 issue -- issue -- I think this whole process has got to
4 get sanitized so that it solves the problem Jason is
5 trying to solve, but it also affords the sort of due
6 process that our council people and other individuals
7 are entitled to.

8 CHAIR KEEN: Thank you, caller.

9 We do have two more callers in the queue. As
10 a reminder, there is a three-minute time limit.

11 MIKE: Yes, hello, good evening. I just
12 wanted to say that it is late, and my name is Mike. I
13 live in Ward 6. I've listened to this complaint too
14 long now. This has been going on. I -- I -- I'd just
15 call this a witch hunt. I mean, I've listened to
16 Mr. Hunter. And I know that, you know, he's an
17 outstanding person and I know he used to be an employee
18 of the city, so I don't understand why this union bug,
19 he's going after so much. Because if this was actually
20 a complaint that should have been going to all of her
21 colleague -- colleagues, not just her.

22 I think this has just gone on long enough.
23 We're wasting too much time, too much resources on
24 this. We have a budget shortfall. We have other
25 issues that we need to address. This is just a waste

1 of time of everybody. And I support Gaby a hundred
2 percent. Thank you. Good night.

3 CHAIR KEEN: Thank you for your comments.

4 I believe that would leave us one more caller
5 in the queue.

6 MR. WALDEN: Hi. Pete Walden again, Ward 1.
7 After listening to the entire presentation, it's a
8 clear violation of the Sunshine Ordinance. End of
9 story. Thank you.

10 CHAIR KEEN: Thank you for your comment.

11 There are no more callers in the queue, so at
12 this point we will close public comment, close the
13 phone lines. What we're going to do right now before
14 we take this to panel discussion is Brandon is going to
15 review the findings from the city council's decision at
16 that original appeal hearing, and then the panel will
17 discuss the hearing in its entirety.

18 MR. MERCER: Yes, I mean, I just wanted to
19 point out code section of RMC, this wasn't really
20 discussed much during the present -- presentation of
21 evidence, but under RMC section 2.78.090E, the last
22 sentence, if there is a finding by the city council of
23 a clear error or abuse of discretion by the hearing
24 panel, then that finding shall be clearly stated and
25 the manner shall be referred back to the Board of

1 Ethics for de novo new rehearing of the matter in light
2 of the findings on appeal.

3 You can look in your packets. The findings
4 by the city council are found on pages 240 to 242. I'm
5 not going to read the whole -- whole packet of -- of --
6 of these findings, but they should be considered. Just
7 to kind of paraphrase, one of the findings was Sunshine
8 Ordinance was not violated because it allows waiver if
9 there's certain conditions that are met. Another
10 findings from the city council was that urgency was
11 established and procedures were followed. Another
12 finding was Sunshine has a clear process that was also
13 followed. Another finding was the agenda in the report
14 did not violate the Sunshine or the Brown Act. Another
15 finding -- and these were clear errors -- union bug
16 does not promote the interest of a third party.

17 But they also found a couple instances of
18 abuse of discretion by the hearing panel. One of those
19 abuses, found an abuse of discretion for the hearing
20 panel to substitute their opinion over the opinion of
21 -- of council regarding the issue of urgency. And they
22 also found an abuse of discretion for the hearing panel
23 to disregard and override the policy decisions by
24 council in regard to the union bug. And, you know,
25 under the code, those findings need to be accounted for

1 when you're doing your deliberations and making your
2 decision -- decision.

3 CHAIR KEEN: Thank you, Brandon.

4 All right. If the panel is -- do we need a
5 break, or can we move directly into deliberations?

6 MEMBER NELSON: I think we can move into
7 deliberations, because I think they'll be relatively
8 quick.

9 CHAIR KEEN: Okay.

10 MEMBER NELSON: If I can start, and then
11 anyone can interrupt me. I just want -- I would like
12 to divide it up into two phases, the Sunshine Ordinance
13 and then the union logo on a card. The -- the city
14 council has come up with this theory, which I
15 completely disagree with, that if I'm speeding on the
16 freeway, I'm guilty; but if I can convince one other
17 person to speed with me, I'm now innocent. I
18 completely disagree. I watched the city council
19 meeting that was in the evidence package. I watched
20 the original hearing where we -- where Councilman
21 Feirro testified. There was never a discussion of
22 urgency.

23 So for the city council to say at this point
24 that the bar of urgency was met is void of fact. I
25 cannot find a single instance where anyone even

1 discussed what was urgent. And, in fact, the evidence
2 proves the city council had no idea what they were
3 going to discuss until the discussion began. Because
4 as we know, this is not an insignia. This is a logo,
5 and a logo that clearly has allegiance to one entity.
6 In fact, they copyrighted it. In fact, their
7 publication rules say it does show allegiance. So I
8 think the city council was flawed, and I move that we
9 uphold the Sunshine Ordinance violation because urgency
10 was never discussed.

11 As far as, and I just want to address a more
12 comment where people say, well, maybe it shouldn't be
13 against one councilperson; anyone was open and
14 available to file a complaint against anyone else. So
15 we don't -- we don't -- we're not allowed to extend our
16 jurisdiction to people not on the complaint or to file
17 complaints that we think should have been filed. So I
18 find that point moot. My motion is that we uphold the
19 recommendation of a conviction on the violation of the
20 Sunshine Ordinance.

21 CHAIR KEEN: I do want to -- before anybody
22 seconds that or we take it to a vote, I do want to
23 comment on that, and in the same vein, but slightly
24 different. So the way this is written, it does
25 determine that plurality potentially creates the

1 legality on what is urgent and what is not. And
2 specifically, in that city council's finding, because I
3 know this wasn't discussed at length like city attorney
4 Brandon said during this hearing, but it is a huge part
5 of this, is that they threw it out. And the urgency
6 they're claiming is -- they're saying, they're not
7 claiming, they're stating that the urgency is
8 determined by either the mayor and a councilmember or
9 two councilmembers and that the urgency was established
10 in this case and procedure was followed.

11 That's only half of it. So even if we want
12 to say that that urgency was determined, it's only half
13 of what the Sunshine Ordinance stated at the time. So
14 and it -- it's in the packet multiple times.

15 Mr. Hunter did read it in. It is in Ms. Plascencia's
16 response, is that the mayor or councilmember, with the
17 concurrence of another councilmember, believe an item
18 is urgent and, this word is getting bypassed. It's not
19 just the two signatures. That plurality of two
20 members, giving it the urgency is only half of what the
21 Sunshine Ordinance states at the time. It's that part
22 and the failure to meet any additional notice
23 requirements was due to.

24 And in that letter A portion, because B does
25 not apply, Mr. Hunter already stated that in his

1 evidence, on A, it states, the need to take immediate
2 action which came to the attention of the local body,
3 and here's the important word, after the agenda was
4 posted. So if we take -- if we look at their stating
5 clear error on urgency, okay, maybe that's true;
6 however, they're completely disregarding and not
7 commenting on that clear error of the fact that she
8 didn't meet the additional notice requirements and
9 evidence in this hearing, which we can go back through,
10 states that she knew about it prior to this agenda
11 being posted.

12 We have it quoted in testimony from the
13 previous hearing. We have it in this packet that she
14 knew prior to that 12 days for the posting. It was
15 also brought up in that meeting on the 3rd of December,
16 which again that's prior to. So yes, she had the
17 second signature and those two people thought it was
18 urgent, but she did not meet the additional notice
19 requirement, which makes it a violation of the excuse
20 of the Sunshine Ordinance.

21 Does anybody else on the panel have any
22 comments on that? I feel like those two words are the
23 most important part, and they're being disregarded in
24 Councilmember Plascencia's response letter. And I --
25 and based on what we have from the city council meeting

1 when they said we made a clear error, they do not
2 address that specific piece in theirs. They only
3 address the second signature.

4 And nobody is denying that Councilmember
5 Plascencia got the second signature, that somebody else
6 thought it was urgent. They are completely
7 disregarding the fact that she did not meet the
8 additional notice requirement. And the evidence is
9 here to prove that she knew she wanted to talk about
10 the union bug prior to that 12-day filing period.

11 MEMBER FORD: And, Taylor, I think you -- you
12 really hit the nail on the head. I -- it's what, hour
13 three? I have -- I'm still here mentally, trust me, I
14 am; but I -- I really don't have any more to add on
15 that. I think you guys have covered it brilliantly.
16 So --

17 MEMBER NELSON: Is that a second?

18 MEMBER FORD: I think that is a second.

19 CHAIR KEEN: So we have a motion and a second.
20 Can we call the vote?

21 MS. ARSEO: Yes. Excuse me.

22 CHAIR KEEN: Do you need us to restate the
23 motion, city clerk?

24 MS. ARSEO: Well, if -- if you would -- I have
25 the motion to uphold the Sunshine Ordinance violation.

1 If you would just clearly state the findings so that I
2 can outline them -- out -- outline them, please.

3 CHAIR KEEN: Yes. Go ahead.

4 MEMBER NELSON: Do you want to go ahead?

5 CHAIR KEEN: Go ahead --

6 MEMBER NELSON: Okay. I --

7 CHAIR KEEN: -- Member Nelson.

8 MEMBER NELSON: The -- the findings are that
9 urgency was never discussed. There's no evidence that
10 urgency was ever discussed, nor considered, at any
11 point during this process. And the fact is the
12 councilperson and the city manager were well aware of
13 the request -- the request to put the union bug on
14 business cards long before the agenda was -- was
15 created.

16 CHAIR KEEN: I'd like to add to that, to the
17 findings for that, is that in the city council's
18 decision that this was clear error, they omitted any
19 statements covering the fact that Councilmember
20 Plascencia did not meet the additional notice
21 requirement as stated in the excuse of the Sunshine
22 notice requirements, that she was aware prior. And the
23 evidence for that can be found in the quotes from Al
24 Zelinka, I believe it was page 86 and 88 from the prior
25 transcript, stating that he had communication with her

1 in November of 2020 regarding a union bug specifically.

2 MS. ARSEO: Thank you, Chair Keen. I will
3 call for the vote. Excuse me. Chair Keen, how do you
4 vote?

5 CHAIR KEEN: Yes.

6 MS. ARSEO: Member Graham.

7 MEMBER GRAHAM: Yes.

8 MS. ARSEO: Member Nelson.

9 MEMBER NELSON: Yes.

10 MS. ARSEO: Member Ford.

11 MEMBER FORD: Yes. I think Jason has raised
12 his hand though just now in case --

13 MS. ARSEO: Motion carries unanimously. Thank
14 you.

15 MR. HUNTER: Thank you. I think you should
16 also address in your findings, quite frankly, because
17 you could be subject to -- to appeal, finding number
18 four and finding number five of the council, which is
19 that the December 17th, 2009 agenda and associated
20 report for item 7A did not violate the Sunshine
21 Ordinance or the Brown Act as a report that finds
22 collateral and as a union bug is an insignia.

23 And secondly, that the union bug on the
24 business card constitutes -- well, I think that you'll
25 -- you'll -- you'll -- actually, maybe you'll -- you'll

1 -- you'll talk about that later. Sorry. I think I'm
2 -- I'm -- I'm -- I'm going to withdraw my point. I
3 think it's for the second motion.

4 MEMBER NELSON: Yeah.

5 MR. HUNTER: Sorry about that.

6 CHAIR KEEN: Member Nelson, you have your hand
7 raised.

8 MEMBER NELSON: Oh, I did. Oh, I'll -- I'll
9 -- I will go ahead and make another motion. On -- on
10 item -- on the city council, the union bug on a
11 business card does not promote the interest of a third
12 party is factually incorrect. It is a registered
13 trademark of a party, of an entity. It is -- that
14 specific union bug is the registered trademark of the
15 printer's union. So its use as legal is immaterial.
16 We are not a court of law. We are an ethics panel.

17 There's a -- for -- when they talk about
18 other cities doing it, doesn't apply, because we don't
19 even know if those other cities had any kind of
20 marketing manual. We don't know how it was presented
21 to be on their collateral, whether it was presented by
22 a councilperson or not. And -- and it -- it -- so and
23 the city council was not well versed or informed on
24 this topic when they called the union bug an insignia,
25 shows they were not educated on what they were

1 approving; therefore, we are not questioning their
2 ability to make solid, informed, and properly agendized
3 policy decisions.

4 We're discussing them making decisions that
5 are not informed, not agendized, and that circumvent
6 the public's right to air their opinion.

7 CHAIR KEEN: Quickly, before any further
8 discussion happens on that, this discussion and
9 deliberation is for the hearing panel. Unfortunately,
10 the complainant and the respondent do not have the
11 opportunity to give comment in this deliberation. Just
12 so we make sure we're staying on track, per the way the
13 protocol reads. Do any -- do -- does anyone else have
14 any comments on this?

15 MEMBER GRAHAM: I think it's the same thing,
16 like the legal versus the ethical, like what they did
17 right on here is that the third party as its use is
18 legal. Okay. We get that and understand that, but is
19 it ethical that she put it on the cards? And what it
20 represents is what we're looking at. So we've got to
21 focus on that part.

22 CHAIR KEEN: I think, from a personal point of
23 view, I don't agree with it as has come up in these
24 proceedings in all the times that they have been
25 discussed. And as Councilmember Perry states in that

1 -- in the video from the meeting is where -- where does
2 this ball stop rolling down the road as far as
3 insignias and logos as they appear on the cards. This
4 opens the door for a large thing.

5 Personal opinion is not what we're looking at
6 though. We're looking at a packet of evidence on a
7 specific complaint as it regards. And I don't know, I
8 think it is a fine line of the legality versus ethics.
9 Is it ethical, I don't believe so, based on the way our
10 Code of Ethics is written. Other counties and
11 municipalities that have used it, we don't know what
12 their Code of Ethics says. I did not look it up.

13 So I this I that, like Member Graham stated,
14 it's completely irrelevant. We're looking at the City
15 of Riverside under our municipal code and our Code of
16 Ethics. Is it ethically crossing a line? Yes, I
17 believe so; however, I don't know that if it can be
18 changed once that policy was -- decision was made by
19 the city council. I see, I do see their side of the
20 clear error there.

21 Should this have been vetted, as Mayor Bailey
22 stated, through a board or commission prior to this?
23 Absolutely. So I'm -- like, I see -- I -- I'm seeing
24 both sides on this and trying to see where it actually
25 would be a violation of the prohibitive conduct.

1 MEMBER NELSON: I -- I -- I'd like to make one
2 comment in regard to that. It is, we are not asking
3 the city council to review a policy decision they made.
4 They created that in their own lust to make a defense.
5 We are saying that the process that -- that got this
6 approved is where the violation occurred. What the
7 city council does in regards to keeping the policy,
8 agendize -- or changing it later, I would concur with
9 them, they have the right to make policy decisions,
10 like I said, properly agendized with cure -- with
11 actual factual data presented and well informed.

12 If the City of Riverside's majority of
13 citizens disagree with that union bug being on the
14 card, I don't think that is a Board of Ethics issue.
15 That is for them to take up with their city council
16 person at public comment or at face-to-face meetings or
17 when they come up for election.

18 So I want to make it clear that my motion is
19 not in any way telling the city council to change their
20 policy. It is specifically addressing on how this
21 decision was made and how that violated the ethics
22 code.

23 CHAIR KEEN: Okay. So the actual complaint
24 that we would be voting on at this point would be the
25 advocacy of a private interest or a third party in

1 certain circumstances being prohibited.

2 MEMBER NELSON: Right, because I'm saying that
3 their entire response is factually incorrect.

4 CHAIR KEEN: Because that's a trademarked
5 item --

6 MEMBER NELSON: That is not a --

7 CHAIR KEEN: -- for a specific business.

8 MEMBER NELSON: Yeah, there is -- an insignia
9 and a trademark logo are mutually exclusive. And, in
10 fact, that's why they're kind of jumpropping with the
11 term. And the fact that it doesn't have an allegiance
12 to any one entity -- entity, I would argue with the
13 trademark office regarding that or the printer's union.
14 They claimed it as a representative logo trademarked of
15 their entity.

16 So what I'm saying is the reason the city
17 council returned it is not based on fact or the facts
18 in this case. And -- and by the way --

19 CHAIR KEEN: Okay. Now --

20 MEMBER NELSON: -- in the original decision --

21 CHAIR KEEN: Uh-huh.

22 MEMBER NELSON: -- there was nowhere that I
23 read that you guys said the city council doesn't have
24 the right to make policy. So that -- that's an
25 argument that wasn't even on the table. That's an

1 argument they just threw into the appeal.

2 MEMBER FORD: And just based on my own
3 professional experience with the unions, it's highly
4 inappropriate to have that on the city logo. I don't
5 believe, like -- like I said, it was just done randomly
6 and without thought. There is meaning behind that when
7 you place that on your city business card. I -- so I
8 definitely have an issue with that. And I think for a
9 person to also kind of insult our intelligence and just
10 say, hey, you know, I just thought, hey, I'm just
11 supporting the people just and placing it on my card,
12 it really is a slap in the face.

13 And to be quite honest with you, some of the
14 language that was used in this meeting today was just
15 very highly inflammatory. It was almost offensive to
16 what we have put into the board and just our time and
17 our effort. So it's outside the scope of what we're
18 obviously discussing today, but I always think it's
19 important to just discuss our feelings.

20 And maybe moving forward, it might be in the
21 best interest of those who come before the board not to
22 spend, you know, 15 minutes criticizing us. And that's
23 all I have to say. But (indiscernible) die out, so you
24 might have to (indiscernible).

25 CHAIR KEEN: So I want to -- because I want to

1 make sure I'm a hundred percent clear on this, because
2 I do -- just based on evidence alone, I see both sides,
3 I do. However, I'm going solely on the appeal by the
4 city council that got us here in the first place, that
5 got us back to this de novo hearing for the exact same
6 thing again. So I'm going to read it because it will
7 help me to say it out loud, probably everybody else to
8 hear it out loud as well.

9 So it's advocacy of a private interest of
10 third parties in certain circumstances, that's the item
11 that's prohibited. And what the city council gave as
12 their reason for finding clear error in it is that the
13 union bug on business cards constitutes advocacy for
14 private interest of a third party; and their response
15 to us saying that is, the union bug on a business card
16 does not promote the interest of a third party as its
17 use is legal. There is a precedent for such an
18 insignia to be used on city stationery and the insignia
19 certifies labor performed, not an allegiance to any one
20 entity.

21 So in reading why they're claiming -- or
22 stating, not claiming, they are stating we used clear
23 error. And in reading their response, I believe
24 there's error in there being a precedent for such
25 insignia to be used in other cities. So other cities

1 may not have the same municipal codes. They may not
2 have the same Code of Ethics. They may not have the
3 same position. So this is that irrelevant to the City
4 of Riverside specifically and the codes that we have.

5 We're not debating -- nothing about this
6 claim -- this complaint is -- is about it being -- that
7 we're not -- we're not saying that the use of a union
8 bug isn't legal. We all know that it is legal to use
9 it. Like, I could print it on my stationery for my
10 business if I -- if that's the situation we were in.
11 But they're stating, they specifically state, the union
12 bug does not promote the interest of a third party.

13 However, it is, like Member Nelson stated, a
14 trademarked logo for a specific business.

15 MEMBER FORD: Unions are incredibly powerful.
16 And just kind a little bit of a background with that,
17 those who support unions, typically I wouldn't say
18 receive favors, but there's advantages to supporting
19 unions. So just to kind of pretend like this is just
20 this ambiguous sort of entity, highly inappropriate.
21 And going back to our -- our original --

22 MEMBER NELSON: And -- and -- and just to make
23 one more point just in case. I'm heavily involved with
24 unions as well, and it's what I do for a living. A
25 union logo, which is what the bug is, as a registered

1 trademark, is also licensed. And I don't know if that
2 was -- you know, that -- they're licensed. It's owned
3 by the ITU and the PPMWS or the CWA. It is an owned
4 licensed registered trademarked logo with specific
5 trademark and copyright, and it cannot be reproduced or
6 copied. We shouldn't have even scanned it.

7 CHAIR KEEN: So I think part of my question --
8 oh, sorry, Member Nelson, continue. I didn't mean
9 to --

10 MEMBER NELSON: No, I'm done. That was it.
11 So I just was showing that how -- how well it's
12 protected. So it -- it does not represent one shop.
13 It has specific -- if you -- if you go in and read in
14 the -- in the procedures manual, it then out --
15 outlines specifically why you use it. And -- and --
16 and like I said, if that had all been presented and the
17 city council still voted to do that, that would be -- I
18 would have a different opinion on this case. I would
19 say the city council made a decision I don't agree
20 with, but there was no problem.

21 My problem is, none of that was presented,
22 none of that was discussed, none of that was put into
23 the agenda item, none of that was available for the
24 public to talk about, dispute, or support. I'm sure
25 there would have been a lot of union members that would

1 have come and said, yes, let's do this. And so that's
2 -- that's -- I'm sticking specifically to that as -- as
3 -- as what I'm saying my findings are.

4 CHAIR KEEN: So and then reading -- because I
5 -- I do not have history with unions. I am going
6 solely off of all evidence provided within this packet.
7 And what I read with the information about a union bug
8 in the packet, it is an advocacy of private interest.
9 I think my question is, is the specific union bug --
10 union bugs are unique to print shops, is that -- am I
11 understanding that correctly? Or is there just one
12 general union bug --

13 MEMBER NELSON: There's union bugs for the
14 printer's union or those that hire union printers.
15 There's -- there's union bugs for clothing union.
16 There's union bugs for -- there's the label and allied
17 printing, depending on what type of printing you do.
18 Don't ask me about that because I don't know it.
19 There's the communication worker's union bug. And
20 those are the ones I know about.

21 CHAIR KEEN: So then what we're -- what we're
22 talking about here is the prohibitive conduct, advocacy
23 of a private interest. This particular union bug, is
24 it associated, since it's in here, all the 460 forms,
25 is it specifically associated with someone who gave her

1 a financial contribution, which would then imply that
2 she's advocating for them after that financial
3 contribution? I feel like we need some kind of factual
4 evidence that she is advocating for this specific
5 printing -- this specific union bug. City attorney
6 Brandon is asking to speak.

7 The floor is yours, Brandon.

8 MR. MERCER: Yes, hello. You -- you're
9 starting to have a discussion about items that were not
10 presented as evidence, and your discussion is going way
11 outside of the evidence that was --

12 CHAIR KEEN: Okay.

13 MR. MERCER: -- presented. And you're really
14 not supposed to consider things that are outside the
15 evidentiary record. And I just want to kind of
16 forewarn you that you're kind of going into, I wouldn't
17 even call it a gray area, but let's just call it a gray
18 area of things that -- that really shouldn't be
19 considered.

20 CHAIR KEEN: Thank you, Brandon, for getting
21 us back on track.

22 So I think then I will pare it back down to
23 the evidence specifically. I don't see evidence in
24 this packet that she was given a financial campaign
25 contribution specifically to advocate for the union bug

1 that is on her card.

2 MEMBER FORD: Well, I have to agree.

3 CHAIR KEEN: And that's where I am on that.

4 MEMBER FORD: I think that --

5 MEMBER GRAHAM: I would -- oh, go ahead.

6 MEMBER FORD: Oh, oh, sorry. So I think, you
7 know, we might be going outside of the scope, but we
8 can't deny just some of the professional
9 (indiscernible) or just experience that we have with
10 working with unions. I think Jason, and I don't want
11 to overstep, it seems like he kind of makes this next
12 point (indiscernible) people that contribute to her
13 campaign, look at the fact that many of them are --
14 have unions.

15 So when you look at IBEW, let's see,
16 International Union of Operating Engineers. Just in
17 the title alone most of these contributors have union
18 in -- in the title. So optics-wise, it looks very
19 inappropriate to have a councilwoman want to push the
20 issue of having this bug on her card, especially if you
21 look at some of the contributions that were made on
22 page 92. Riverside Police Officers Association and
23 Union of Engineers, IBEW, Council of -- Riverside's
24 Sheriffs Association.

25 So you don't have to do the research. Just

1 common sense let's you know that there's a lot of
2 entities that are involved with the union. But --

3 MEMBER NELSON: And -- and --

4 MEMBER FORD: -- (indiscernible).

5 MEMBER NELSON: -- I'm going to -- I'm going
6 to disagree with you, respectfully.

7 CHAIR KEEN: Yeah.

8 MEMBER NELSON: And we can debate. I don't
9 think we need to show that a specific union donated
10 money or that there was any financial transaction, nor
11 am I implying there was. What it says in -- in the
12 evidence package, which is this is not being
13 speculative, it's evidence that was presented and not
14 refuted; it's a protection against antiunion and
15 nonunion shops that otherwise may profess working
16 conditions. It can be part of a public relations
17 campaign to induce customers to buy union-made
18 products. It is a sign of good workmanship and quality
19 standards. It is the badge of prestige to attract new
20 union members. It is a warning against trespass by
21 competitive unions.

22 It doesn't say specifically a public relation
23 campaign to induce people to buy union printing. It
24 says union. And this is from the evidence that was
25 presented and -- and not refuted or not challenged, the

1 purpose of placing the union bug or the union logo on a
2 document or presenting it. And it -- and it's their
3 stated five purposes.

4 So I just want to be extremely clear that I
5 am, in my motion, there is no implication nor any --
6 anything saying that she took money from any specific
7 union to put this on a card. I don't want --

8 CHAIR KEEN: Thanks, Member Nelson.

9 MEMBER NELSON: I don't want to --

10 CHAIR KEEN: I followed along, while you were
11 reading that, on page 13. So that was helpful for you
12 to reread that.

13 Member Graham, did you have a -- I thought I
14 cut you off at some point. Did you have a comment?

15 MEMBER GRAHAM: I think we're -- everybody has
16 their points, but I think we're going like way too far
17 in-depth in it where it's just like advocacy, like
18 that's what it's asking. Advocacy just means public
19 support, right? The business card she puts out there,
20 the bug is on there; it's public support, period.
21 Like, there could be a number of different things. She
22 -- business cards go out to other, maybe other city
23 council people. They go out to any citizen in the
24 city, whatever that might be.

25 So if I'm handing you a card that has a

1 specific logo on it, I am supporting whatever that
2 entity is. Advocacy, support, same thing. That's it.

3 CHAIR KEEN: Thank you, Member Graham.

4 Is there any further discussion? If not,
5 could we get a re -- could you regive your motion since
6 we have been talking for quite a while after you gave
7 it?

8 MEMBER NELSON: Okay. The -- my motion is
9 that we uphold the prior recommendation to city council
10 on the violation of 2.78.060, advocacy of private
11 interest of a third party in certain conditions because
12 the union logo on a business card promotes the interest
13 of a third party and the logo certifies allegiance to
14 one specific party.

15 MEMBER FORD: I'll second.

16 MEMBER NELSON: Further -- yeah.

17 MEMBER FORD: Are you -- are you finished or
18 -- or --

19 MEMBER NELSON: Yeah, yeah. No, no, we could
20 -- we could --

21 MEMBER FORD: Okay.

22 MEMBER NELSON: -- discuss findings at the --
23 at the next board meeting as well.

24 CHAIR KEEN: Do we have a motion and a second?
25 I think Member Ford seconded that.

1 MEMBER NELSON: Yes.

2 CHAIR KEEN: All right. Then I think we're
3 ready to call a vote.

4 MS. ARSEO: Okay. I'll call the vote. Chair
5 Keen.

6 CHAIR KEEN: Yes.

7 MS. ARSEO: Member Graham.

8 MEMBER GRAHAM: Yes.

9 MS. ARSEO: Member Nelson.

10 MEMBER NELSON: Yes.

11 MS. ARSEO: Member Ford.

12 MEMBER FORD: Yes.

13 MS. ARSEO: The motion carries unanimously.

14 CHAIR KEEN: All right. The -- those were the
15 only two that we were voting on, correct, that came
16 back to us on appeal? So based on those votes -- city
17 clerk, do you have the statement of findings from those
18 motions for being prepared, did you need anything else
19 on that?

20 MS. ARSEO: No, I've -- I've captured them.
21 Thank you.

22 CHAIR KEEN: Thank you.

23 At this point, the city attorney, Brandon, if
24 you would like to address the appeals process. I don't
25 believe that has changed in the policy with the city

1 council -- or in our protocol with the city council
2 since the last time, but if you could readdress how
3 this will work.

4 MR. MERCER: Sure. And it's always good
5 posture to just afford everybody what -- what their
6 appeal rights are at the end. On -- on this one, it
7 would be under 2.78.090A. I'll just read it. A
8 decision by the hearing panel finding a violation of
9 the prohibited conduct section of this chapter shall be
10 automatically appealed to the city council. The city
11 clerk shall place the appeal on the agenda of a regular
12 meeting of the city council within 30 city business
13 days of the hearing by the hearing panel and shall
14 notify the parties in writing of the hearing date. And
15 that's -- that's the section that would apply.

16 CHAIR KEEN: Thank you, Brandon.

17 That concludes this Board of Ethics hearing
18 in regards to Mr. Hunter's complaint. I do want to
19 take a second and say thank you to everybody who was
20 here tonight. I know all of us on the Board of Ethics
21 are volunteer and do this on our own time.

22 Thank you to Mr. Hunter and Councilmember
23 Plascencia for your time as well. I know this is a
24 lengthy time commitment to participate in these
25 hearings.

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And I also wanted to say thank you to the city clerk Eva and our new city clerk Donesia. If I butchered your name again -- I really appreciate your guys' time and that you were able to come up to speed quickly and help us with this. I know you're coming in on the very end of it. And that adjourns our hearing.

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(Whereupon, the proceedings concluded)

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1 STATE OF WASHINGTON)

2) SS:

3 COUNTY OF WHATCOM)

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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 28th day of April,
14 2021.

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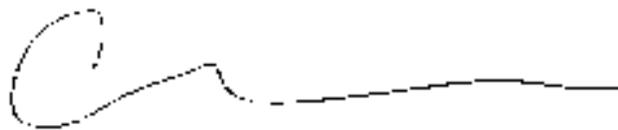
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Christine Aiello