

A P P E A R A N C E S:

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1 THE SECRETARY: Ready?

2 May I have your attention, please?

3 Please take notice that on Tuesday, April
4 25th, 2017, at six p.m., a Regular Public Meeting
5 is scheduled for the City of Union City Planning
6 Board, in the -- to be held in the Municipal
7 Chambers of the City Hall, 3715 Palisade Avenue,
8 Union City, New Jersey.

9 Before we call roll for this evening, will
10 everybody kindly rise to salute the flag?

11

12 (Whereupon, the Pledge of Allegiance was
13 said by all.)

14

15 THE SECRETARY: Thank you.

16 This is a meeting called in compliance with
17 Chapter 231, Public Law 1975, of the Open Public
18 Meeting Act.

19 Notice of this meeting has been provided as
20 follow:

21 Notice of this meeting, setting forth the
22 time, date, location, and the agenda, to the
23 extent known, was sent to The Jersey Journal, The
24 Record, and The Hudson Reporter, has been posted
25 on the bulletin board in City Hall, and has been

1 made -- made available to the public in the
2 Office of the Municipal Clerk.

3

4 **ROLL CALL:**

5

6 THE SECRETARY: Roll call for tonight's
7 meeting.

8 Mayor Brian P. Stack? Absent.

9 Ydalia Genao?

10 MS. GENAO: Yes.

11 THE SECRETARY: Commissioner Celin
12 Valdivia?

13 Is absent.

14 Alicia Morejon? Absent.

15 Diane Capizzi?

16 CHAIRPERSON CAPIZZI: Here.

17 THE SECRETARY: Carolina Fernandez?

18 MS. FERNANDEZ: Here.

19 THE SECRETARY: Rudy Rivero?

20 MR. RIVERO: Here.

21 THE SECRETARY: Franklin Medina?

22 MR. MEDINA: Here.

23 THE SECRETARY: Jeanne Koehler? Absent.

24 Alejandro Velazquez?

25 MR. VELAZQUEZ: Here.

1 THE SECRETARY: Jose Guareno?

2 MR. GUARENO: Here.

3 THE SECRETARY: Let -- let the record
4 indicate that seven present.

5 Those absent tonight are Mayor Brian P.
6 Stack, Commissioner Celin Valdivia, Alicia
7 Morejon, and Jeanne Koehler.

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1 **ADOPTION OF MINUTES:**

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3 (1) Regular meeting held on March 28, 2017.

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5 THE SECRETARY: Approval of previous
6 meeting minutes from March 28, 2017.

7 Can I have a motion to adopt this meetings?

8 CHAIRPERSON CAPIZZI: I'll make a motion.

9 MR. VELAZQUEZ: Second.

10 THE SECRETARY: Motion by Mrs. Capizzi.

11 Second by Alejandro Velazquez.

12 Roll call on the motion.

13 Mayor Brian P. Stack? Absent.

14 Jeanne Koehler? Absent.

15 Diane Capizzi?

16 CHAIRPERSON CAPIZZI: Yes.

17 THE SECRETARY: Carolina Fernandez?

18 MS. FERNANDEZ: Yes.

19 THE SECRETARY: Ydalia Genao?

20 MS. GENAO: Yes.

21 THE SECRETARY: Franklin Medina?

22 MR. MEDINA: Here.

23 THE SECRETARY: Alicia Morejon? Absent.

24 Rudy Rivero?

25 MR. RIVERO: Here.

1 THE SECRETARY: Commissioner Celin
2 Valdivia? Absent.

3 Alejandro Velazquez?

4 MR. VELAZQUEZ: Yes.

5 THE SECRETARY: Jose Guareno?

6 MR. GUARENO: Yes.

7 THE SECRETARY: Seven in favor. Motion
8 carries.

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1 **808-810 21st Street, LLC - 917 21st Street and**
2 **808-810 21st Street:**

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4 THE SECRETARY: We are going to change, a
5 little bit, the order of tonight's meeting.

6 We are going to go to 808-810 21st Street,
7 LLC.

8 MR. ORTIZ: I'm going to stand behind you.

9 THE SECRETARY: Mrs. Pereiras, please?

10 MS. PEREIRAS: Good evening, members of the
11 Board.

12 May it please the Board, Bianca Pereiras,
13 on behalf of the applicants.

14 This is an application that appeared before
15 this Board back in 2012 for approvals. My client
16 is requesting an extension from this Board for
17 another year.

18 Unfortunately, my client not only had a few
19 financial delays, but actually had some severe
20 health issues that set him back on these
21 projects.

22 He is looking to get started right away.
23 However, he is asking this Board for a one year
24 extension, so that he could submit to the
25 Building Department for permits.

1 MR. ORTIZ: Counselor, you said this was --
2 this was presented in 2012. This is his first
3 request for an extension?

4 MS. PEREIRAS: This is actually his second.
5 We understand that the Permit Extension Act is
6 still good until June. However, we came in last
7 year, because we weren't sure if that was going
8 to be extended, and did request an extension at
9 that time, and this Board did grant us that
10 extension.

11 MR. ORTIZ: Okay.

12 And so, as long as your client's aware this
13 is probably going to be the last one.

14 MS. PEREIRAS: We understand.

15 MR. ORTIZ: And only because we have -- I
16 mean, we're -- we're stuck with it, unless he
17 pulls the permits.

18 MS. PEREIRAS: He has every intention of
19 proceeding.

20 MR. ORTIZ: Okay.

21 CHAIRPERSON CAPIZZI: All right.

22 MR. ORTIZ: We do require a motion.

23 THE SECRETARY: Okay.

24 Can I have a motion?

25 CHAIRPERSON CAPIZZI: I'll make a motion.

1 THE SECRETARY: Motion by Mrs. Capizzi.

2 MR. VELAZQUEZ: I'll second it.

3 THE SECRETARY: Second by Alejandro
4 Velazquez.

5 Roll call on the motion.

6 Mrs. Capizzi?

7 CHAIRPERSON CAPIZZI: Yes.

8 THE SECRETARY: Mrs. Fernandez?

9 MS. FERNANDEZ: Yes.

10 THE SECRETARY: Mrs. Genao?

11 MS. GENAO: Yes.

12 THE SECRETARY: Mr. Medina?

13 MR. MEDINA: Yes.

14 THE SECRETARY: Mr. Rivero?

15 MR. RIVERO: Yes.

16 THE SECRETARY: Mr. Velazquez?

17 MR. VELAZQUEZ: Yes.

18 THE SECRETARY: Mr. Guareno?

19 MR. GUARENO: Yes.

20 THE SECRETARY: Seven in favor. Motion
21 carries.

22 MS. PEREIRAS: Thank you very much.

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1 **Lorgia, LLC - 2023 Kerrigan Avenue:**

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3 THE SECRETARY: The next one on the agenda
4 is Lorgia, LLC, 2023 Kerrigan Avenue.

5 Mrs. Pereiras, please?

6 MS. PEREIRAS: Again, Bianca Pereiras, on
7 behalf of the applicant.

8 This is the same applicant from the
9 previous application. We did come forward before
10 this Board in 2012 for these approvals.

11 As I mentioned, he had some significant
12 health issues and he was hospitalized for quite
13 some time, and unfortunately, could not bring
14 this application, or submit a building permit.

15 We are requesting, again, a one year
16 extension to allow him to get this building
17 permit submitted to the town.

18 MR. ORTIZ: And this is his second, as
19 well.

20 MS. PEREIRAS: This is also his second
21 application.

22 MR. DILLON: Willie, can you stand by that?

23 MR. VELAZQUEZ: This is the same -- same
24 person, right?

25 MR. ORTIZ: I'm sorry. I'm sorry.

1 This is his second, as well.

2 MS. PEREIRAS: Same individual. Same
3 applicant.

4 MR. VELAZQUEZ: Same individual?

5 MS. PEREIRAS: Yes.

6 CHAIRPERSON CAPIZZI: Okay. I'll make a
7 motion.

8 THE SECRETARY: Motion by --

9 CHAIRPERSON CAPIZZI: Um hum.

10 THE SECRETARY: -- Mrs. Capizzi.
11 Second by?

12 MR. VELAZQUEZ: Second.

13 THE SECRETARY: Mr. Alejandro Velazquez.
14 Roll call on the motion.

15 Mrs. Capizzi?

16 CHAIRPERSON CAPIZZI: Yes.

17 THE SECRETARY: Mrs. Fernandez?

18 MS. FERNANDEZ: Yes.

19 THE SECRETARY: Mrs. Genao?

20 MS. GENAO: Yes.

21 THE SECRETARY: Mr. Medina?

22 MR. MEDINA: Yes.

23 THE SECRETARY: Mr. Rivero?

24 MR. RIVERO: Yes.

25 THE SECRETARY: Mr. Velazquez?

1 MR. VELAZQUEZ: Yes.

2 THE SECRETARY: Mr. Guareno?

3 MR. GUARENO: Yes.

4 THE SECRETARY: Seven in favor. Motion
5 carries.

6 MS. PEREIRAS: Thank you all --

7 THE SECRETARY: Thank you, Mrs. Pereiras.

8 MS. PEREIRAS: -- very much.

9 Have a good night.

10 MR. RIVERO: You, too.

11 MS. PEREIRAS: Bye-bye.

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1 **OTHER BUSINESS:**

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3 MR. ORTIZ: One -- one thing I was asked by
4 the Town Clerk to remind everybody of.

5 Due to some technical issues, with the
6 Local Finance Board, your financial disclosure
7 deadline has been extended to May 30th. She will
8 be getting you the information. I'm not saying
9 that you had it. She's going to get it out
10 tomorrow.

11 But she wanted me to point out, please get
12 it in time; they are actually fining people this
13 time around, because it's easy for them to do on
14 the computer. They just got to see who didn't
15 file it. And someone is -- she's aware of
16 someone that's getting hit with a hundred dollar
17 fine.

18 So, we all want to avoid the embarrassment,
19 never mind the money. So --

20 MR. VELAZQUEZ: Just --

21 MR. ORTIZ: -- when you get that.

22 MR. VELAZQUEZ: Real quick. Even though I
23 know we -- we fill it out, but I have also -- the
24 other boards that we already filled out also
25 with, too. That's some kind of protection too,

1 right?

2 MR. ORTIZ: No. No. Every board --

3 MR. VELAZQUEZ: Because the one I just
4 filled out for the Sewage Authority, I had to put
5 the Planning Board, too.

6 I know it's separate, but --

7 MR. ORTIZ: No.

8 MR. VELAZQUEZ: -- the Planning Board was
9 on it.

10 MR. ORTIZ: But the thing is, that you need
11 to do it under each code.

12 MR. VELAZQUEZ: Yeah.

13 MR. ORTIZ: Otherwise it's a violation.

14 You know how you get your entrance code for
15 --

16 MR. VELAZQUEZ: Why is it so late, though?

17 MR. ORTIZ: There was some glitch, and I --
18 I'm not really aware of --

19 MR. VELAZQUEZ: With the State. Right?

20 MR. ORTIZ: -- the details. With State.
21 It's not our fault.

22 MR. VELAZQUEZ: Yeah, I know.

23 MR. ORTIZ: We did nothing wrong. The City
24 did nothing wrong. You, as individuals, did
25 nothing wrong.

1 But nevertheless, that's why they're
2 extending it. They can't actually -- they --
3 they're doing it on some technical basis,
4 extending it.

5 But the statute requires by the end of this
6 month, I believe.

7 MS. NOVA: The end of May.

8 MR. ORTIZ: No. The end of April,
9 normally.

10 MS. NOVA: I'm sorry. You're right. It's
11 being extended until the end of May.

12 MR. ORTIZ: But it's being extended on some
13 technical grounds.

14 MS. NOVA: Correct.

15 MR. ORTIZ: Which I'm not aware of, quite
16 frankly, exactly what they are, but they are.

17 And she's going to be getting everybody
18 their financial disclosures out tomorrow.

19 My advice is when you get it --

20 CHAIRPERSON CAPIZZI: Right away.

21 MR. ORTIZ: -- do it. Get it over with.
22 It's behind you, then you don't have to worry
23 about it.

24 MR. GUARENO: They haven't sent out the
25 notice to --

1 MR. ORTIZ: No. No, they haven't. That's
2 -- that's going out tomorrow.

3 MR. GUARENO: Right. Because I have not
4 received anything.

5 MR. ORTIZ: No, you shouldn't --

6 MR. GUARENO: I usually do fill it out.

7 MR. ORTIZ: Right. Right. Well, that's
8 because they -- and that's the Local Finance
9 Board's problem. That's why.

10 MS. NOVA: Correct.

11 MR. ORTIZ: They didn't get the codes out
12 or something like that. It's some -- I'm not
13 exactly sure.

14 MS. NOVA: Yeah. It has nothing to do with
15 -- with the City, or anything that we did, as a
16 city, or any Board members. It has to do -- it's
17 completely with the State and Local Finance
18 Board.

19 MR. VELAZQUEZ: Because the -- our Board of
20 Education ones, we did that already.

21 CHAIRPERSON CAPIZZI: Yeah.

22 MR. VELAZQUEZ: We had no problems with it.

23 MR. ORTIZ: And Alex, I -- don't quote me
24 on this, but you may have to do it all over again
25 --

1 MR. VELAZQUEZ: I do it on --

2 MR. ORTIZ: -- if they have --

3 MR. VELAZQUEZ: No, I do a totally separate
4 one. No, I know that.

5 MR. ORTIZ: No, no, no. What I'm saying is
6 --

7 CHAIRPERSON CAPIZZI: You have to do that
8 again.

9 MR. ORTIZ: -- even for the ones that
10 you've done, if there's some kind of glitch in
11 their system, something went wrong, you -- like
12 for the Board of Ed, you may have to do it again,
13 is what --

14 CHAIRPERSON CAPIZZI: Um hum.

15 MR. ORTIZ: -- I'm trying to say.

16 I don't know that as a fact, but --

17 MR. VELAZQUEZ: Yeah, because what I just
18 did --

19 MR. ORTIZ: It wasn't our screw up.

20 MR. VELAZQUEZ: I did it for --

21 CHAIRPERSON CAPIZZI: Right.

22 MR. VELAZQUEZ: -- the Sewage Authority.
23 We did it last week.

24 MR. ORTIZ: Well --

25 MR. VELAZQUEZ: And everything's the same.

1 Like you know --

2 MR. ORTIZ: Yeah. Oh, yeah.

3 MR. VELAZQUEZ: -- the same. So, if you
4 have the same --

5 MR. ORTIZ: See, you know, I'm not a
6 computer expert, as you could tell. I couldn't
7 even get this projector working --

8 MR. VELAZQUEZ: It stayed the --

9 MR. ORTIZ: -- but --

10 MR. VELAZQUEZ: -- same, right?

11 MS. NOVA: Right.

12 MR. ORTIZ: But there's a place to put the
13 codes for each one of -- so, you basically go
14 back into your screen and, I think it's edit
15 submission, or something like that. And then,
16 you put the new code for this Board, for example.

17 And it's the same thing, it's just now
18 you're filing for this Board. Each -- each one
19 of your positions requires a separate filing.

20 CHAIRPERSON CAPIZZI: Okay.

21 MR. ORTIZ: So, like I said, just get it
22 done when you get the -- the --

23 CHAIRPERSON CAPIZZI: Okay.

24 MR. ORTIZ: -- codes and just do it. It's
25 easier.

1 CHAIRPERSON CAPIZZI: Um hum.

2 MR. ORTIZ: That's it. That's all I got
3 for the moment.

4 THE SECRETARY: Right. We are going to --

5 MR. ORTIZ: I turn it over to Corporate
6 Counsel.

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1 **ADOPTION OF RESOLUTIONS:**

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3 (1) Jacqueline Villalobos, 813 16th Street,
4 Block 80, Lot 25. Legalization of existing
5 apartment to create three residential units.

6 (2) Isaac Rosenberg, 145 35th Street, Block,
7 208, Lot 28. Propose rear addition (sic) and
8 legalization of an apartment.

9

10 THE SECRETARY: We are going to
11 Resolutions.

12 Want me to pull the --

13 MR. ORTIZ: Oh, yes. Yes.

14 THE SECRETARY: -- Resolution --

15 MR. ORTIZ: I'm sorry.

16 THE SECRETARY: -- first?

17 MR. ORTIZ: I'm sorry. Please. I'm sorry.

18 THE SECRETARY: First Resolution on
19 tonight's agenda, Jacqueline Villalobos, 813 16th
20 Street.

21 This application was approved at the
22 previous meeting.

23 Resolution number 2.

24 Isaac Rosenberg, 145 35th Street.

25 Also, this application was approved --

1 approved at the previous meeting.

2 Can I have a motion to approve these
3 Resolutions?

4 CHAIRPERSON CAPIZZI: I'll make the motion.

5 THE SECRETARY: Motion by Mrs. Capizzi.

6 Second by?

7 Mr. Rudy Rivero.

8 Roll call on the motion.

9 Mrs. Capizzi?

10 CHAIRPERSON CAPIZZI: Yes.

11 THE SECRETARY: Mrs. Fernandez?

12 MS. FERNANDEZ: Yes.

13 THE SECRETARY: Mrs. Genao?

14 MS. GENAO: Yes.

15 THE SECRETARY: Mr. Medina?

16 MR. MEDINA: Yes.

17 THE SECRETARY: Mr. Rivero?

18 MR. RIVERO: Yes.

19 THE SECRETARY: Mr. Velazquez?

20 MR. VELAZQUEZ: Yes.

21 THE SECRETARY: Mr. Guareno?

22 MR. GUARENO: Yes.

23 THE SECRETARY: Seven in favor, motion
24 carries.

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1 **CORRECTIVE RESOLUTIONS:**

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3 (1) Jacobo and Maria Meis, 211 34th Street,
4 Block 200, Lot 29. Construction of a three story
5 20' 10 1/2" x 43' 1 1/2" addition in the rear
6 portion of an existing two family house.

7 Resolution was memorialized on April 26, 2016.

8 (2) 500 Summit Avenue Associates, LLC - 500
9 Summit Avenue, Block 20, Lot 15-19. Add second
10 floor to existing professional building.
11 Resolution was memorialized on March 25, 2014.

12

13 THE SECRETARY: Next on tonight's agenda,
14 we have Corrective Resolutions. We have two.

15 First one, Jacob (sic) and Maria Meis, 211
16 34th Street.

17 This Resolution was memorialized on April
18 26, 2016.

19 Second Corrective Resolution, 500 Summit
20 Avenue, LLC, 500 Summit Avenue.

21 This Resolution was memorialized on March
22 25th, 2014.

23 Can I have a motion to adopt these
24 Corrective Resolutions?

25 CHAIRPERSON CAPIZZI: I make a motion.

1 THE SECRETARY: Motion by Mrs. Capizzi.

2 MR. VELAZQUEZ: I second.

3 THE SECRETARY: Second by Mr. Velazquez.

4 Roll call on the motion.

5 Mrs. Capizzi?

6 CHAIRPERSON CAPIZZI: Yes.

7 THE SECRETARY: Mrs. Fernandez?

8 MS. FERNANDEZ: Yes.

9 THE SECRETARY: Mrs. Genao?

10 MS. GENAO: Yes.

11 THE SECRETARY: Mr. Medina?

12 MR. MEDINA: Yes.

13 THE SECRETARY: Mr. Rivero?

14 MR. RIVERO: Yes.

15 THE SECRETARY: Mr. Velazquez?

16 MR. VELAZQUEZ: Yes.

17 THE SECRETARY: Mr. Guareno?

18 MR. GUARENO: Yes.

19 THE SECRETARY: Seven in favor, motion
20 carries.

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1 **COMMUNICATIONS:**

2 **SEMINAR ON ALL RECENT ORDINANCE CHANGES:**

3

4 THE SECRETARY: All right.

5 We are going to move, now, to the seminar
6 on all recent ordinances change.

7 MS. NOVA: Good evening, everybody.

8 For everybody who might not know, my name
9 is Krystle Nova. I'm Corporation Counsel for the
10 City of Union City.

11 And this is my colleague, Michael Jimenez,
12 who will be joining me in this presentation.

13 The idea behind this presentation is simply
14 to do a refresher seminar on some issues
15 regarding conflicts of interest, some -- some
16 small points on -- on, basically, what you guys
17 do as a Board, which, honestly, you'll know. So,
18 we'll breeze those all of those.

19 And then, the second portion will be the
20 Ordinance update, which is essentially all of the
21 Ordinances that the City has adopted in the last
22 two years.

23 And again, they're going to be summaries.
24 What I did was I put packets together for
25 everyone that has all the information that you're

1 going to hear from us. It probably has more
2 information than you're going to hear from us,
3 because we're going to do sort of a concise
4 version of that.

5 And then, every single Ordinance that has
6 been adopted, you have copies of in your packet,
7 so that you can -- you know, be informed as a
8 Board. I think that's important, and -- and
9 Mayor and Commissioners thought that it was
10 important that we all -- everybody be on the same
11 page.

12 We're doing this for all of the different
13 boards, so it's not -- you know, just the
14 Planning Board. It's going to be every single
15 one of the Boards. Okay?

16 So, Mike, you want to join me?

17 MR. JIMENEZ: How are you?

18 Again, Mike Jimenez. I work with Krystle.

19 I'm going to be talking about the ethics
20 portion of this.

21 Before you guys sat down, we were trying to
22 get the monitor up, but everything that is on
23 that monitor is now before you in those little
24 boxes.

25 So, I'm really just going to speak on those

1 little boxes, touch upon them.

2 I've been practicing 17 years now, probably
3 15 of that in zoning. This is not meant to
4 educate you in terms of we're going to teach you
5 new stuff. It's just to refresh -- refresh you,
6 remind you of little things.

7 Hopefully, you'll be able to grasp one or
8 two things, and say, wow, I forgot that. Or let
9 me -- I'm reminded of that, so in the future, we
10 have a better board by you knowing more.

11 Basically, I'm going to start with ethical
12 obligations.

13 Just so you know, as a Planning Board
14 member, you have ethical obligations, not just --
15 you don't have to be elected to have ethical
16 obligations. By agreeing to take this position,
17 you took an oath, you took some type of
18 certification that said I'm going to follow the
19 law.

20 So, you are held to a certain standard, an
21 ethical standard, when it comes to making your
22 decisions and sitting up there.

23 And you are governed by the Local
24 Government Ethics Law, Common Law, and the MLUL,
25 which one -- that's one you do on a daily basis.

1 That's when people come before the Board.

2 The ethics laws that govern you are really
3 reviewed by the Local Finance Board. Whenever --
4 if something happens, the complaint is made to
5 the Local Finance Board.

6 If someone feels that you acted
7 inappropriately, in terms of ethics, that's the
8 person, that's the company, or that's the
9 division, or agency they go and they report that.
10 The Local Finance Board, then, they receive the
11 complaint. There's no statute of limitations.

12 So, don't think just because you left this
13 Board last year, oh, they can't touch me now.
14 They can still go after you. They may not do
15 that, nonetheless. But they can still go after
16 you for something you said or did, ten years ago
17 or five years ago, as long as you're on this
18 Board, or if you're -- if they still feel the
19 need to go after you.

20 They conduct hearings, and they issue
21 decisions. Based on those decisions, they issue
22 fines.

23 It's just somewhere to control this. This
24 is the checks and balances. This is so people
25 know that, listen, you -- you don't act here

1 | arbitrarily. That you're not just doing what you
2 | want here. That you're bound by some rules and
3 | regulations. And if you fall outside those
4 | lines, you are susceptible to some type of
5 | violation.

6 | What is a local government employer
7 | officer? You don't have to be an elected
8 | official, like I said earlier. You don't have to
9 | be a full time employee.

10 | A volunteer is a -- is a local government
11 | employee, to some degree. And you are still
12 | responsible for your actions and conduct.

13 | So, it goes on -- on the paragraph or page
14 | 5, it will discuss it. I think you have the same
15 | pages as me, but it discusses what a local
16 | government employee is and a local government
17 | officer.

18 | Be rest -- rest assured that you all are an
19 | employee, although not paid, sometimes you should
20 | be, and although that you -- all the time and
21 | effort you do, you know you're not an elected
22 | official, you are governed by these ethics rules,
23 | and you are an employee. And that's how they
24 | would come out at you, later on.

25 | Now, some statutory things.

1 These items I'm going to mention to you are
2 items which you probably know already, but just
3 we're going to remind you again the obligations,
4 because sometimes you read, N.J.S.A. 48:9-
5 22.5(a). Mike, I don't know what that means.

6 Well, we're just going to remind you again
7 that this is a -- these are all conflicts. The
8 majority of them are conflicts.

9 And this one basically says that you shall
10 have no interest in a business organization, or
11 engage in a business -- business transaction or
12 professional activity which is a substantial
13 conflict of the proper discharge of your duties
14 here.

15 So, if you represent a developer, and a
16 developer comes before this Board, that would be
17 improper that you hear this application. You can
18 recuse yourself. You -- well, you can just
19 recuse yourself and not hear that application.

20 Don't put yourself in a position, and these
21 are very obvious things, but sometimes people
22 forget. Oh, no, Mike, I'm a realtor and I'm -- I
23 already have a contract signed with that
24 developer. But it's not going to take place
25 until he's finished his construction. That still

1 is a conflict.

2 If you feel it in your gut that it's a
3 conflict, it probably is. You don't have to be
4 told that all the time.

5 N.J.S.A. 48:9-22.5c.

6 We can't take advantage of our position.
7 You know, you can't say, someone comes here,
8 don't worry, I'm going to take care of you. I'm
9 the Chairman, I'm the Vice Chairman. I know
10 this. I control this Board.

11 You don't say those things. You don't give
12 that impression of those things.

13 Every applicant who comes before this Board
14 must and should feel that they're being treated
15 individually on their -- on the merits of their
16 application.

17 You may have a predisposition. That's
18 right. That's what -- that's why the -- you were
19 selected to take this position, because they want
20 your -- your background, your -- your knowledge,
21 your history. But they want you to apply it
22 fairly to each one that comes before this Board.
23 And pursuant to this statute, you're not going to
24 take advantage of that power that you have.

25 And you guys each have that power to decide

1 yes or no of an application. And, obviously, you
2 know these developers come in here, having spent
3 thousands of dollars just in terms of getting the
4 application before you. Even before they ever
5 started construction, so that they -- they have a
6 large incentive; that they want this done.

7 9-22.5d and e.

8 Obviously, if your family members are
9 involved; cousin, sister is before this Board,
10 again, it's improper for you.

11 If your wife is a -- works as the assistant
12 to the developer on this application, just use
13 your smart, common knowledge. Say, listen, I'm
14 not going to hear this application. I'm going to
15 recuse myself.

16 It won't be seen negatively. It will be
17 seen that you're following the proper ethics
18 rules.

19 48:9-22.5g.

20 Obviously, you're in a position where
21 you're going to hear -- some of the bigger
22 applications take more than one or two or three
23 hearings. So, you're going to hear stuff. So,
24 you're going to know in the corner, some corner
25 of whatever street in the town, in the city,

1 | they're going to build this big monster building
2 | development. I'm going to give that information
3 | to someone. And I'm using -- no reason at all,
4 | I'm just using realtor as easy, so you call the
5 | realtor friend of yours, and say, hey, by the
6 | way, go talk to this developer. He's going to do
7 | a hundred units, and you can get in early, and
8 | I'm pretty sure we're going to pass him.

9 | You don't put yourself in that position.
10 | Anything that -- that's basically taking that
11 | information, you take from this Board and using
12 | it for a -- your own personal benefit or
13 | financial gain.

14 | N.J.S.A. 40:A9-22.5f.

15 | Gifts.

16 | If I come over to you, as a developer, or
17 | as someone associated with development, I go --
18 | you know what, listen, your wrist would look
19 | great with a Rolex watch on it.

20 | Obviously, that's the wrong thing to do.

21 | There -- there is a -- a thing of value.
22 | If I say, listen, I'm presenting this Board --
23 | this is my pen, I don't think this is going to
24 | make you change your mind to say yes to this
25 | application or no.

1 But obviously -- you know, if it's
2 something larger, if they're tickets to the
3 Knicks games. Hey, by the way, you look like a
4 Knicks fan. I saw you wear the Knicks hat the
5 other day. Here's some tickets to Knicks fan.
6 Has nothing to do with my application come before
7 you next week.

8 That's different than saying -- you know,
9 here's a sandwich, though my experience has been
10 it's a zero --

11 MS. NOVA: Say no.

12 MR. JIMENEZ: -- tolerance.

13 MS. NOVA: Just say no.

14 MR. JIMENEZ: The moment anyone sees you,
15 the moment anyone, because you're being judged
16 not by yourself only, but by other -- how other
17 people perceive you. So, if they see you take
18 something, doesn't matter how insignificant,
19 maybe as a pen, they're going to think that's
20 just the tip of the iceberg, and there's been
21 more of that going on.

22 So, don't give anyone the misimpression of
23 what -- you know, your -- your character is and
24 your integrity.

25 Most people don't even know, but they'll

1 take a pen not even knowing better, and people
2 will see that, and they'll mischaracterize it.

3 N.J.S.A. 40A:9-22.5h.

4 No matter how much he may want to, your
5 Board Attorney cannot say, hey, by the way, guys,
6 I'm going to take a -- I'm going to recuse myself
7 from being your Board attorney. I'm going to
8 come out here and represent this applicant.

9 The Town Planner cannot come here on a
10 planning application, if he's your
11 (indiscernible).

12 So, that's more for professionals, but
13 again, you can't -- as much as we want -- may
14 want, he can't step over here and present an
15 application, because there's a conflict there
16 that he represents this Board, and obviously,
17 that you would favor his application.

18 2C. Now this is not to 40A. This is a
19 2C:30-2.

20 Obviously, if your conduct rises to the
21 level of criminality, this is the statute that
22 the Prosecutor's Office may charge you with.

23 May, because they may charge you with this
24 or something worse. So, keep that in mind that
25 there is a criminal component to this. You're

1 not going to just be held -- get a call from
2 Local Finance Board, and say, hey, we're going to
3 fine you for \$50.00.

4 You'll get that. But then you'll get a
5 call from Prosecutor's Office, have you come in
6 and say, hey, listen, we want to talk to you
7 about A, B, C, D, and E.

8 So, please keep that in mind.

9 MS. NOVA: All right.

10 So, as Mike said, you're governed under the
11 Local Government Ethics Law. You're governed
12 under Common Law. And then, you're also, because
13 of the kind of Board that you are, you're also
14 governed under the Municipal Land Use Law, which
15 you all should be very well acquainted with.

16 And again, they kind of overlap each other.
17 So, you cannot have -- so Planning or a Zoning
18 Board member is not permitted to act in any
19 matter which -- where they would either directly
20 or indirectly have any personal or financial
21 interest.

22 Disqualification of a public official from
23 participating in proceedings in which the
24 official has a conflicting interest that may
25 interfere with the impartial performance of

1 duties as a member of the public body.

2 So, in other words, you have to -- if
3 there's even the idea or the perception that
4 somebody seeing this, or reading about this, or
5 hearing about this would think that something is
6 not on the level, you should -- you -- you should
7 really speak to Board Counsel, of course, and
8 discuss it.

9 But, really, at that point, if there's any
10 sort of personal interest, or financial interest,
11 you're disqualified from hearing the application.

12 I don't really think you need to go -- go
13 over that one.

14 These are more for -- for your information.

15 The four types of conflict of interest --
16 if you go to the next page, the four types of
17 conflict of interest that you have to be
18 considered -- take into consideration is direct
19 pecuniary interest, indirect pecuniary interest,
20 direct personal interest, and indirect personal
21 interest.

22 And basically, the first two have to do
23 with money, financials.

24 If you're going to get some sort of
25 windfall from -- from an application, or -- or

1 for example, we just had this happen in a
2 different -- in another town, you -- there's
3 going to be an application on some sort of plan,
4 and you live -- you live close to that area, and
5 there might be -- or your mother lives close to
6 that area, and there's going to be sort of a
7 windfall because you're -- you're going to --
8 you're going to -- the area's going to get
9 better, because of this development.

10 That's probably something that you're going
11 to have to talk to counsel about.

12 And honestly, at that point, you should not
13 be sitting on the application. You should not be
14 hearing the application.

15 The important thing about this, and for us
16 attorneys, it's very important, is that when a
17 conflict of interest is discovered, the entire
18 process needs to start over.

19 So, it's so much easier if you just tell it
20 from the beginning. If you have any sort of
21 indication that you think there might a conflict
22 of interest, just speak to Board Counsel, and
23 from -- from the get-go, from the very beginning.
24 Because if not, it's going to -- you have to deal
25 with the whole process all over again. And then,

1 everybody's time is wasted. Money, time -- you
2 know?

3 MR. ORTIZ: If I could just go --

4 MS. NOVA: Sure.

5 MR. ORTIZ: That's why, more often than
6 not, when we've run across this situation, and by
7 the way, my Board's been very good at being up
8 front, if I'm going to lean any way, I usually
9 lean up against disqualification because --

10 CHAIRPERSON CAPIZZI: Um hum.

11 MR. ORTIZ: -- why take the chance?

12 MS. NOVA: Exactly.

13 MR. ORTIZ: So, if you wondered why half
14 the time I tell you, you have -- no, I think you
15 should step down from the dais, that's the reason
16 why.

17 CHAIRPERSON CAPIZZI: Um hum.

18 MR. VELAZQUEZ: That's his favorite line,
19 conflict of interest.

20 MS. NOVA: And -- and I want you guys to
21 understand, it doesn't necessarily mean that you
22 actually have a conflict of interest. It doesn't
23 necessarily mean that you really are not acting
24 impartially.

25 It's just that the -- it's going to appear

1 | that you are, or if somebody looking in, a
2 | reasonable person looking in, and the court
3 | looking in, if they see this, they're going to
4 | say, I don't know, this doesn't -- this doesn't
5 | look right.

6 | Or -- or a member of the public is going to
7 | say, this doesn't look right. They shouldn't
8 | have been sitting on this. They had extra
9 | information. Or they had some sort of financial
10 | interest, or their family had financial interest.

11 | And the important thing about this is that
12 | conflict of interest law changes so rapidly,
13 | because every situation is different.

14 | So, your personal -- you know, situation is
15 | going to be different from your personal
16 | situation. Everything's always -- so the law is
17 | always changing.

18 | So, you're -- it's better to be cautious
19 | and to just not even sit in the first place,
20 | because then we got to do the whole thing all
21 | over again.

22 | CHAIRPERSON CAPIZZI: Um hum.

23 | MS. NOVA: All right. So, I wanted to go
24 | over some examples.

25 | Tell me if any of these seem like they

1 wouldn't be a conflict of interest to anybody, or
2 if they would.

3 So, some examples. A conflict exists when
4 a Board member's mother lives within 200 feet of
5 the applicant's property.

6 Did -- did everybody know that?

7 MR. VELAZQUEZ: No.

8 MS. NOVA: And -- and that's because -- and
9 why?

10 Because the mother could get some sort of
11 financial gain from living within that area, or
12 some sort of personal gain, because now all of a
13 sudden, the area is going to be nicer. You know?

14 MR. JIMENEZ: Going to put a train station
15 there, right down the block, and you know the
16 ratables are going to go up. So mom's going to
17 sell that property -- that one family house that
18 she was going to sell now, she's going to hold
19 off on selling that -- you know, wait another
20 year, because when that train station comes,
21 they're going to -- it's going to be more
22 valuable.

23 MS. NOVA: And by the way, these all come
24 from actual cases. So, these examples are all
25 from cases.

1 MR. VELAZQUEZ: So that -- that would be
2 owned property, not like rental property that
3 you're --

4 MS. NOVA: Right.

5 MR. VELAZQUEZ: -- just going to own.
6 Anything --

7 MS. NOVA: Exactly. Owned.

8 MR. VELAZQUEZ: Okay.

9 MS. NOVA: Yeah. Go ahead.

10 MR. VELAZQUEZ: Because everything will be
11 a conflict for me, then.

12 MR. ORTIZ: Well, just as a general matter,
13 though, if you're within 200 feet, and you got
14 served with notice of anything, in our particular
15 Land Use situation, it's probably easier and
16 smarter just to recuse yourself, if you were
17 served with notice --

18 MS. NOVA: Yes.

19 MR. ORTIZ: -- for some reason.

20 And that's usually what my recommendation
21 is in -- in those situations because it avoids
22 any potential.

23 MS. NOVA: Yeah, and there -- there's even
24 -- there's even a case right now, where it's
25 possible that even outside of 200 feet.

1 MR. ORTIZ: Well, I don't know how they'll
2 do that one but --

3 MS. NOVA: So -- so like I said, the law
4 just keeps changing, so it's better to err on the
5 side of caution.

6 All right. The next one.

7 Board members who work for a bank, which
8 would benefit from a proposed ordinance change,
9 must disqualify themselves.

10 So that has to do with your employment,
11 outside of the city, has nothing to do with --
12 with the board. This -- you know, and -- and why
13 would -- why would that matter? The -- the bank
14 that you -- that you work for? What are you
15 getting out of that?

16 But this is a case where they found that
17 you would benefit, that -- that board members who
18 work for a bank would benefit from a proposed
19 ordinance change, and they had to disqualify
20 themselves.

21 All right. Number three.

22 Board member who is a manager of a title
23 insurance company, that did all the title work
24 for an applicant, must disqualify themselves.

25 So, that's, again, a situation where if you

1 -- depending on what -- what you do outside of
2 this Board, if you do title insurance work, if
3 you do -- if you're a realtor where -- where
4 something like this might -- might effect you.

5 However, the important thing that you have
6 to know is that board members appointed by the
7 Mayor and Commissioners were permitted to hear a
8 development application filed by that -- by those
9 Commissioners or the Mayor, because a public
10 official should be able to conduct business
11 within their own municipalities.

12 And that -- and that's basically who -- who
13 better than the Planning Board to -- who else is
14 going to review -- you know, if the Mayor lives
15 here, and he owns property here, who also going
16 to review the plans for them?

17 The Planning Board is supposed to be paying
18 attention to what's going on in the city. So,
19 they're the ones that have to review those
20 applications.

21 And this would not bar those sort of
22 applications.

23 Did you have something to say?

24 MR. ORTIZ: Well, no, not really. The only
25 -- the only thing is that some -- a lot of us --

1 I'm sorry. I usually speak loud.

2 MR. DILLON: I can hear you.

3 MR. ORTIZ: A lot of us -- you know, own
4 property in town, and if, for example, the
5 appropriate Board to come before would be this
6 Board, come to me, and we'd probably then yield
7 to file with the Board of Adjustment, so that
8 there's no conflict, because there's an inherent
9 conflict of filing before this Board, just by
10 being a member of it.

11 So, we -- the Board of Adjustment, there
12 are certain exceptions that they could hear
13 certain things like use, or not use variance, but
14 things that would normally be under the purview
15 of the Planning Board.

16 MS. NOVA: Okay.

17 So, what happens if you're disqualified? I
18 mean, you guys should all know this, but when a
19 Board member has been disqualified for conflict
20 of interest, the Board member cannot participate
21 in any fashion before the Board.

22 The disqualified member should not sit with
23 the Board, but they can remain at the hearing.
24 If it has some -- if they want to hear it, and it
25 has something to do with their property, they're

1 | allowed to stay here and hear it.

2 | So, waiver of a conflict of interest by the
3 | parties. Disclosure ordinarily does not cure a
4 | conflict. Direct conflicts cannot be waived and
5 | -- and render any action taken by the Board void.

6 | In other words, there's no such thing as a
7 | waiver of a conflict of interest.

8 | However, and this would be something that
9 | you would talk to your Board Attorney about, if
10 | there was a conflict that occurred in the past,
11 | but that's no longer a conflict anymore,
12 | depending on the situation, and depending on what
13 | -- you know, the Board Attorney feels, fact --
14 | fact specific -- you know, you -- it's possible
15 | that the duties -- I'm sorry -- that the conflict
16 | of interest, the old conflict of interest could
17 | be waived by consent of the applicant and the
18 | Board.

19 | But again, why even take the chance, if you
20 | don't need to? You might as well, again, err on
21 | the side of caution.

22 | Okay. So, this is basically what I said
23 | before. Public officials should always avoid the
24 | appearance of impropriety.

25 | So, again, don't take it personally if --

1 | if they -- if they say you have a conflict of
2 | interest. You might not actually have a conflict
3 | of interest, but it's -- it's just that if it
4 | looks like it's something, you could be tempted
5 | to, you -- you would have some sort of reason,
6 | just in the back of your head, or -- or that
7 | somebody else would think that you -- that that's
8 | possible, you -- you should -- you know, not hear
9 | the application.

10 | All right. Now, these are -- these are the
11 | -- the four important points.

12 | You're a local government officer, so we
13 | know that.

14 | You represent the City of Union City, as a
15 | Planning Board member.

16 |

17 | (Whereupon, Commissioner Celin Valdivia
18 | arrived at 6:50 p.m.)

19 |

20 | THE SECRETARY: Allow me one second,
21 | please.

22 | Let the record indicate that Commissioner
23 | Valdivia joined the meeting, 6:50 p.m.

24 | Thank you.

25 | Have a seat, Commissioner.

1 Thank you.

2 MS. NOVA: Okay. What is conduct becoming
3 of a government official, and professional
4 attire, and you should always act in a
5 professional manner when you are -- actually, all
6 the time, because you are a Board member. So,
7 you are representing the City of Union City.
8 You're representing the Mayor. You're
9 representing the Commissioners. You're
10 representing the entire City.

11 So, you always have to -- you know, look
12 your best, act your best, and remember that
13 nowadays, anybody could be recording anything
14 that's happening. So, you always have to take
15 that into consideration.

16 If you don't -- if it's -- if you're doing
17 something that you would not want people to see,
18 don't do it.

19 You have anything to add to that?

20 MR. JIMENEZ: Again, it may not apply to
21 this Board, but I -- I do stress media. Your
22 Facebook, if you have it, Instagram, whatever
23 accounts you may have, understand in this quasi-
24 political figure role that you hold, everything
25 you do, everything you post, everything you post

1 in writing can come back at you, and even at this
2 Board.

3 And we're going to talk about public
4 speaking, when they come before this Board and
5 start making comments.

6 So, that is part of this decorum and
7 conduct. It's conduct -- you know, becoming of
8 this position you have.

9 So, please be in mind that's the -- the new
10 things we're to be cognizant about. Anything you
11 post.

12 Texts that you send out, that you may think
13 are just going to this Board or that one Board
14 member, and you by mistake, send it to the whole
15 Board.

16 MS. NOVA: Now you're in violation of the
17 Sunset Law.

18 MR. JIMENEZ: So, just -- those are the
19 little things to be careful about. And it just
20 looks poorly upon this Board and yourself, if
21 that's to come out.

22 MS. NOVA: All right.

23 So, this is, basically, how to deal with a
24 rowdy public. I don't know how much of that you
25 get here, depending on -- you know, depending on

1 | what's coming -- you know, in the pipeline, what
2 | kind of application you're hearing.

3 | But you know, prior to -- and this is
4 | really mostly I think -- you know, your -- your
5 | counsel and Carlos probably handle a lot of this,
6 | but you should also be cognizant of what's
7 | happening.

8 | So, anticipate what are hot button issues
9 | in the community. And with our Ordinance review,
10 | you're going to see sort of -- you know, things
11 | that -- that are happening right now, that people
12 | might be -- you know, that you -- that you should
13 | be paying attention to.

14 | Is the community worked up about something?
15 | You all live here, so you know what's going on.
16 | You have your finger on the pulse, right?

17 | Did something dramatic happen at the last
18 | meeting with this applicant?

19 | So just -- you know, keep that in mind.

20 | Plan to deal with the -- with the
21 | situation. You're basically going to be -- you
22 | know, following the lead of the Board Attorney.
23 | And this is something that really, I think,
24 | Carlos would be handling, but -- and this was --
25 | excuse this, but this was for a -- a much rowdier

1 Board than you guys, this slide.

2 So, to increase the security, is the room
3 big enough?

4 You know, and -- and always remember that
5 the -- the public -- this is a public meeting.
6 They're allowed to be here, but they -- there are
7 rules of decorum in all public meetings.

8 So -- and -- and that, that would be on a
9 case by case basis.

10 And then -- and then, this is, basically,
11 just -- you know, keep your composure. Somebody
12 is attacking you, or -- or saying -- saying
13 things derogatory towards you as a Board member,
14 just remember that -- not to respond, because if
15 you respond, then now you're the official.
16 They're a member of the public. You're an
17 official.

18 So you know, just let -- let the Board
19 Attorney handle it, and -- and you know, don't
20 take it personally. I mean, they might be saying
21 personal things, but don't take it personally.

22 And that's -- that goes along with the stay
23 calm. Unexpected things are going to happen.
24 He'll deal with it.

25 MR. VELAZQUEZ: My aunt takes care of it.

1 MR. JIMENEZ: Robert's Rules.

2 Most boards follow Robert's Rules, in terms
3 of decorum and how you present yourselves.

4 MS. NOVA: Does -- does everybody know what
5 Robert's Rules are?

6 MR. VELAZQUEZ: No.

7 MS. NOVA: No? Okay. So, do you want to
8 explain?

9 MR. JIMENEZ: Robert's Rules are a set of
10 guidelines and parliamentary authority. They
11 basically give you a structure. This is the
12 chairperson or president; this is the vice
13 president, and it sets the tone for how you're
14 going to conduct the meeting.

15 It provides -- the intent is to provide an
16 orderly and fair process when it comes before
17 this Board, and it's consistent.

18 So, everyone typically follows Robert's
19 Rules, so the same Robert's Rules that are
20 followed here, are followed in the Planning
21 Board, in the ABC Board, and the Board of
22 Commissioners, if you will.

23 So, it's just meant to serve as a
24 parliamentary organizational.

25 Obviously, when Robert's Rules conflicts

1 with some type of bylaw, regulation, that
2 regulation trumps.

3 Basic tenements (sic) of Robert Rules. And
4 that's before you.

5 Speaker should be recognized. Let everyone
6 speak. When it's time for them to be spoke -- to
7 speak, everyone should have a fair opportunity be
8 heard.

9 Obviously, we have time constraints and
10 when we're here late at night, our Board Attorney
11 and the Clerk will decide, okay, listen, we're
12 going to continue this next time, but we try to
13 seem as fair as possible, and give everyone the
14 opportunity to be heard.

15 And if it be someone that hasn't been
16 heard, there's some people, you guys know, that
17 will just take control of this podium, if you
18 will, and just overwhelm everyone's comments.

19 Make sure everyone is given time. I don't
20 know if this Board actually has a minutes that
21 they provide of speakers, but we try to adhere to
22 those minutes.

23 Just as rule -- just as we give five
24 minutes to someone who's saying things
25 positively, you'd give five minutes to someone

1 | who say negatively. But we're consistent in
2 | that, and no one can come back and say, later on,
3 | well, you treated me unfairly, or
4 | inappropriately.

5 | Stay on topic. It just means you don't get
6 | caught up in the wrangling of some type of
7 | comments that be made over here.

8 | If they're talking personal tanks --
9 | personal attacks against you, or your family
10 | members, you're going to look to the Board
11 | Attorney and/or Clerk, and they're going to
12 | control that, or the chairperson, at the time, is
13 | going to stop that from happening.

14 | Try not to engage in a personal tirade
15 | against any one individual that may come up here.
16 | They're looking, most instances, it's been my
17 | experience, to egg you on, to see a reaction out
18 | of you. They want to see something said that is
19 | inappropriate.

20 | At the end of the day, you're being
21 | recorded, and the comments you made are being
22 | typed up.

23 | That will -- it's a -- it's a double edged
24 | sword, if you will.

25 | Robert's Rules maintain some decorum here,

1 | so when you speak, when you speak, and when you
2 | speak, we hear every word you say clearly.

3 | If ten people are talking at the same time,
4 | we can't hear anything. And something important
5 | was said, and they miss it, they're going to
6 | blame it on you. Oh, they never said that.

7 | We -- that's where Robert Rules helps. One
8 | person speaks at a time. And obviously, the
9 | microphone tries to catch it, because when more
10 | than one person are speaking, I don't care if
11 | it's being recorded, when it's being transcribed,
12 | it does not come out on paper really well.

13 | MR. DILLON: That's right.

14 | MR. JIMENEZ: And I've had --

15 | MS. NOVA: That's right.

16 | MR. JIMENEZ: I've had hearings where, in a
17 | crucial part, when I try to rely on the
18 | transcript, because two people were screaming,
19 | nothing got heard.

20 | There's even been -- you know, when I do
21 | some type of presentations, some towns, I bring
22 | my own stenographer to hear -- to try to get what
23 | everyone's saying.

24 | Not for -- they try to do their best with
25 | the recordings, but you never know. So, Robert's

1 Rules has that decorum that one person speaks at
2 a time. And please be cognizant of that, as
3 well.

4 Again, debate the issue, don't get
5 personal. Direct comments to the president.
6 Again, anyone makes a comment to you, don't take
7 it personally, direct it to the president.

8 Next one is free speech and public comment.

9 Obviously -- you know, people come up here,
10 typically, the persons you have come up here are
11 primarily based on the application before you.

12 They're allowed to speak in a content
13 neutral manner, not -- not being derogatory, as
14 long as they keep to the application, you'll be
15 okay.

16 If it's not that type of speech, if it's
17 derogatory speech, if it's personal attacks,
18 that's when the Board Attorney and/or Chairperson
19 should intervene and say, that's -- we're not
20 going to let that happen.

21 But don't --

22 MS. NOVA: If they're threatening, also,
23 which is possible.

24 MR. JIMENEZ: So, they'll say, I have a --
25 I have a freedom of -- my First Amendment right

1 here. I can say whatever I want.

2 No, you can't. There are limits to that
3 freedom.

4 And most boards are able to control the
5 people that speak. Again, this Board doesn't
6 probably get as much irate and the full house of
7 people screaming and yelling, but if they did,
8 understand that as long as they're speaking
9 intelligently about the application, even though
10 they may be passionate, don't confuse passion --
11 I may scream and yell, but that's okay. Some
12 people will do that. It's not seen -- under the
13 law, that's not improper.

14 It's when they say, well, I'll talk to you
15 after the meeting, and we'll resolve this then.
16 Then, that's when you go beyond the First
17 Amendment protections.

18 Public comment and disruption of the
19 meetings. Again, the chairperson is in control.

20 While someone can speak here passionately
21 and wants to get their point across, you are in
22 control. And as such, while they can express
23 themselves, you have -- you can maintain that
24 decorum in this particular application or
25 hearing, and you can ask the person to be

1 | excused, if they go beyond that.

2 | And you'll just see. Conduct may
3 | constitute criminal action under New Jersey law.
4 | And that's when more vibrant boards that have
5 | more people here, fighting and screaming and
6 | yelling, and that's when police are -- may or can
7 | be involved.

8 | And you may get that with -- if this Board
9 | has an application, which is a sensitive
10 | application, and I'm just throwing one out there.
11 | They want to put a develop -- developmentally
12 | challenged home, boarding home, in a residential
13 | area.

14 | People may come out here passionately, not
15 | -- not -- you know, NIMBA (sic), not in my
16 | backyard theory of zoning.

17 | I don't want that in my -- I don't -- I
18 | don't have anything against them, but I don't
19 | want it.

20 | And we've been getting that a lot with
21 | mosques, where they want to place mosques. You
22 | saw that in Bayonne. People get passionate.

23 | And if something like that comes about,
24 | you'll have your Board Attorney and the
25 | Chairperson and the Clerk, will decide to have

1 people here. And if they violate the decorum of
2 Robert's Rules, and you feel that they're being
3 derogatory, or threatening -- more threatening,
4 you have the right -- we have the right to have a
5 police -- police arrest them.

6 Public comment and disruption of meetings.
7 Again, this is like, you know it, when you see
8 it.

9 A regular speaker at town meetings, do not
10 violate -- this is a specific example, he didn't
11 violate the law when he spoke longer than his
12 allotted time, and interrupted others with rude
13 comments at a town meeting. Rude comments. Not
14 threatening comments, rude.

15 His volatile personality was well known to
16 the Counsel -- I'm sure you have people that come
17 before this Board that are well known, and he was
18 not -- and he was loud and cantankerous and
19 insistent during his speech.

20 But he was not physically disruptive, nor
21 was that -- when he was asked to leave. So, he
22 said stop. When you said stop, he left.

23 So, again, you -- you'll know it when
24 someone's getting out of control to say stop. Or
25 again, the Board Attorney will handle that.

1 MR. ORTIZ: (Indiscernible). I would never
2 do that.

3 MS. NOVA: All right. So, this is -- Board
4 members cannot be permitted to undertake personal
5 actions that serve to dissuade the public from
6 exercising its right to attend and participate
7 local Board meetings.

8 So, that's basically, this is a public
9 meeting. They're allowed to come. You can't do
10 anything that's going to make them feel like
11 they're not -- that this is not an open public
12 meeting, and -- and that would -- that's against
13 the law, anyways.

14 So, we would -- we would never do that.

15 This -- these are examples of Board members
16 who were suspended for different reasons.

17 Board member was suspended for one year for
18 making profanity laced threats toward a member of
19 the public, who called for the board member's
20 resignation.

21 I've seen that before.

22 CHAIRPERSON CAPIZZI: Hmm.

23 MS. NOVA: A board member was suspended for
24 two months for confronting a member of the public
25 in a verbal and physical manner regarding his

1 public comments at a board meeting.

2 I've seen that before, as well.

3 So, okay, this is executive session.

4 I don't think we have to really go over
5 this. This is -- you know, this is when your --
6 when Willie puts on the record that there's a
7 reason why we're going into closed session, and
8 they are enumerated in -- in the statute.

9 And that's, basically, because of the Open
10 Public Meetings Act that there has to be a
11 specific reason why you're going into closed
12 session.

13 Now, recording a meeting.

14 Members of the public have a Common Law
15 right to videotape public meetings. Boards,
16 however, are permitted to impose reasonable
17 guidelines to ensure that the recording of the
18 meeting does not disrupt the Board's business.

19 So, this is -- possible restrictions would
20 include, and I don't know if you guys do this or
21 not here, but possible restrictions are number,
22 type of cameras, position of the cameras,
23 activity, and location of the operator, lighting,
24 controlling noise levels.

25 This is, I think -- you know, basically,

1 | when -- if you have the media wanting to come in.
2 | That's really when, I think, this would -- this
3 | would come into play. I don't -- but technically
4 | --

5 | MR. ORTIZ: And knock on wood, we've never
6 | really had to deal with --

7 | MS. NOVA: Right.

8 | MR. ORTIZ: -- that situation.

9 | MS. NOVA: Yeah.

10 | MR. ORTIZ: That's -- those -- those
11 | hothead type presentations is usually at the
12 | Board of Adjustment, not here.

13 | MS. NOVA: Okay. Yeah.

14 | However, there's no requirement for boards
15 | to tape their meetings. When determining whether
16 | to tape a public meeting, it should be noted that
17 | the tape of Board meetings are releasable to the
18 | public.

19 | We don't do that here.

20 | All right. So, again, always keep it cool.
21 | Your actions during a meeting may be recorded,
22 | even if you don't realize it, especially
23 | nowadays. People pick up their phone and start
24 | recording. There's no way you can tell who's
25 | recording in the back of the room, or who's

1 recording -- you know, just -- just verbally.

2 It doesn't necessarily have to be a tape.
3 Could be any kind of recording.

4 And -- and remember that they could even be
5 recording you, even after the tape here has
6 stopped. So, while you're going outside. You
7 know? Pay attention to that. Watch -- watch
8 what you're saying -- you know, when you're
9 leaving. Things like that.

10 Okay. And then, that's basically the
11 ethical part.

12 Mike is going to touch, very briefly, on
13 the zoning process, which you all should be very
14 familiar with.

15 If you do have any questions, please feel
16 free to ask.

17 MR. JIMENEZ: Summary Zoning process.

18 You've been here before. You -- you sit
19 here, every time when the application is ready to
20 go. Before it comes to you, though -- before it
21 comes to you, an applicant, a developer, and I'm
22 talking about the guy that wants to build a one
23 family house, the guy that wants to build a
24 hundred units, the process is the same, just may
25 be the level and the cost.

1 Basically -- typically, it starts with a
2 developer going to an architect, saying what he
3 wants to do, develop -- a reasonable architect
4 will say, this can fit there or this cannot fit
5 there.

6 They'll either recommend an attorney, or
7 say, I have my own attorney.

8 The architect will make an application for
9 a permit. He'll be denied by the construction
10 official.

11 With that, they'll do an application.

12 Once the application is received, by the
13 zoning official, they'll determine whether it's
14 complete or not complete.

15 Non-complete file doesn't start the time
16 limits. And that's very important, because
17 that's a little -- that's -- that's a game some
18 applicant attorneys will try to play, and say,
19 listen, you have a complete file and it's been
20 sitting there for a year. Why haven't you taken
21 action?

22 And under MLUL, they have certain rights
23 that they can enforce.

24 But nonetheless, once it's determined to be
25 complete, the application comes before this

1 Board.

2 You review it. You look at that
3 application. You have a hearing on it. Depend
4 -- depending on the nature of the application,
5 one or two hearings. You decide to either vote,
6 not vote, or the applicant will withdraw his
7 application, based on some feeling of this Board.

8 If an application goes through and it
9 fails, the applicant knows that. He'll have to
10 come up -- come back to this Board with something
11 substantially different.

12 So, sometimes they'll just withdraw it
13 first, rather than you saying no. So, I can
14 change it from a four to a five, easily, if I
15 withdraw it. But if you say no four, he has to
16 come back with a substantially different
17 application. And that does not permit it,
18 theoretically.

19 Once a -- you have your hearing, you have
20 public comments, you make a decision.

21 After that decision is made, the applicant
22 has 45 days, which typically -- not the
23 applicant, but the public, any other party has 45
24 days to appeal that decision.

25 That's why you'll see most applicant or

1 developers will wait 45 days before starting the
2 construction.

3 Some eager developers well, no, I'm going
4 ahead with it, and take the chance. But
5 nonetheless, if they have a competent attorney,
6 they'll tell them, listen, wait until the 45 days
7 expires and then.

8 It will take you guys, normally, 30 days
9 for you to approve the resolution. So, the 45
10 day starts once it's memorialized.

11 So, it just -- because it got passed
12 tonight, doesn't mean we start tolling that time,
13 yet. The next meeting, when you actually pass
14 the resolutions, and memorialize it, then the 45
15 day starts from there. And then, that's when
16 they can appeal the (indiscernible).

17 If it gets appealed, though, then it goes
18 to the Superior Court.

19 The typical reason, they'll say some type
20 of arbitrary and capricious, that this Board did
21 something that they weren't supposed to. A
22 person from outside. This applicant was not
23 supposed to get that.

24 The applicant can also appeal the decision
25 of this Board, as well. He can go there and say,

1 | listen, that Board acted arbitrary and
2 | capricious. They denied me, and they allowed
3 | three other two family houses on this block, and
4 | they didn't let me go there. And then, I'll list
5 | my reasons.

6 | An attorney, not your Board Attorney, but
7 | another attorney handles those applications,
8 | those defenses, and they go there. Depending on
9 | what the result is there, it may come back and
10 | this Board may have to revisit that application
11 | once again.

12 | On an easier note, you have all other
13 | application that you approve, and like tonight,
14 | you grant extensions. Typically, extensions, two
15 | -- two is permissible.

16 | We had the Permit Extension Act, but now
17 | it's -- they just come before this Board and ask
18 | for that.

19 | That's pretty much your process, which --
20 | which you're going to see here.

21 | The next page goes over a brief overview of
22 | what planning -- I'm not even going to discuss
23 | that with you.

24 | If you've been sitting at this table, you
25 | know what planning and zoning is.

1 Basically, site plans, subdivisions, these
2 are things that you guys see on a regular basis,
3 as compared to what the Board of Adjustment does.

4 Your responsibilities.

5 Prepare the Master Plan, hear and grant
6 subdivision and site plans, hear and grant C
7 variances, and hear and grant, denial -- or deny
8 conditional use.

9 With regard to change of use, and all the
10 other D variances, that goes to the Board of
11 Adjustment. And those are more dramatic
12 hearings, if you will. You're going to hear more
13 people complaining, more people coming to the
14 Board to fight those.

15 Responsibilities of Board members.

16 I'm just going to go over these really
17 quickly, but these just -- oh, actually, you know
18 what? This is the responsibility --

19 MS. NOVA: Yeah.

20 MR. JIMENEZ: -- of D members.

21 MS. NOVA: All right.

22 So, now, we come to our Ordinance update.

23 We're going to -- you know, just go briefly
24 over these. I made copies for everybody, so you
25 have everything that is -- is on the website.

1 And some of these, you -- you know, you
2 might not actually need to know, or -- or it --
3 it's more for -- it has to do with the Planning
4 Board, but it's not something that you're really
5 going to have to deal with, as Board members, but
6 you should know about it. You should know what
7 the City is doing.

8 So, the first one that we have here is
9 under Land Development. And this has to do --
10 has to do with -- basically, this Ordinance
11 amends the City's Land Development Ordinance, and
12 allows for Public, P, District to permit only the
13 specified principal accessory and conditional
14 uses noted therein.

15 This has to do with -- so, basically, the
16 -- if there are parking lots, or there's a new
17 permitted use regarding parking lots owned by the
18 City, owned by the Board of Education, owned by
19 the Parking Authority, or other governmental
20 entities.

21 And this allows for the development of age
22 restricted housing and affordable housing in low
23 or mid-rise apart -- as low or mid-rise apartment
24 buildings.

25 This is a very specific section of the map

1 in the City, and -- and it's only for this one
2 specific use.

3 So, you will know if you're dealing with
4 it, because the Board Attorney will let you know
5 that, and you will hear it in the application.

6 So, you don't have to really -- you know,
7 think about this too much, but you should be
8 aware that it's allowed, and there was a change
9 to the Land Development Ordinance.

10 MR. JIMENEZ: The next one is -- I'm in
11 Chapter 223. These are construction
12 requirements.

13 Basically, there's two Ordinances. There's
14 one behind that, as well.

15 The first one, basically, says for new
16 construction, the following four materials, only
17 likes material, are prohibited: thin brick,
18 tile, synthetic stucco, and Hardiplanks.

19 Four items that are prohibited for new
20 construction.

21 The second Ordinance right behind that says
22 for renovations you can use all of them, but
23 tiles.

24 So, if you're going to renovate your house,
25 you can't renovate it with tiles. You can

1 renovate it with all those other three items that
2 I -- those other three items of the initial
3 Ordinance I mentioned, which are, again:
4 synthetic stucco, Hardiplanks, and thin brick,
5 but no tiles if you renovate it.

6 So, the first one gives you, for new
7 construction, the four things that you cannot
8 use. And for renovations, the only thing you
9 cannot use is tiles.

10 MS. NOVA: So, this is something that if
11 you are hearing an application, and you're asking
12 some questions, it's something that you should
13 keep in mind, because maybe you want to ask them
14 what kind of -- or if -- you know, to be very
15 specific about what kind of materials they're
16 using.

17 Because what's going to happen is that
18 you're going to approve it, and then it's going
19 to go to the Building Department, and then, the
20 Building Department is going to have to issue
21 permits. And if they -- if the application has
22 any of these issues with it, because for whatever
23 reason, they didn't know about the change in the
24 Ordinance, then they're going to have to now
25 change their plans to -- to coincide with the

1 Ordinance.

2 So, this is just something that we want you
3 guys to understand, so that maybe that's
4 something that you ask when you're hearing the
5 applications.

6 MR. JIMENEZ: Or you'll see it in the
7 plans.

8 MR. ORTIZ: Just --

9 MR. JIMENEZ: The plans will say it.

10 MR. ORTIZ: Just for clarification for the
11 Board --

12 MS. NOVA: Sure.

13 MR. ORTIZ: -- because this comes before us
14 a lot, is when we're legalizing -- comes before
15 us every -- almost every evening, the legalizing
16 of an -- of an apartment.

17 MR. DILLON: Willie?

18 MS. NOVA: I'm sorry. What?

19 MR. ORTIZ: Legalizing of a prior -- prior
20 illegal apartment, that would fall under
21 renovation.

22 Correct?

23 MS. NOVA: Yes.

24 MR. ORTIZ: Okay. Just -- no, I'm just --
25 so it's clear, because we deal with illegal

1 | apartments and legalizing them every meeting,
2 | just about.

3 | MS. NOVA: Right.

4 | MR. ORTIZ: So --

5 | MS. NOVA: So, they wouldn't be allowed to
6 | use tile. And the -- and the reason for it, so
7 | that you know some background, is that the tiles
8 | were actually falling off of -- they were
9 | actually falling off of the buildings.

10 | So, that's the reason why it's no longer
11 | allowed, because people were renovating places,
12 | and then the tiles were just falling off. So you
13 | know, what's the point of that?

14 | Okay.

15 | So, then, the next one --

16 | MR. ORTIZ: (Indiscernible).

17 | (Whereupon, there was a pause in the
18 | proceedings.)

19 | MS. NOVA: All right.

20 | The next one that you should definitely be
21 | aware of is, when it comes to new construction
22 | only, there is now a requirement that there
23 | should be an installation of permanent standby
24 | generators, in residential properties with five
25 | or more stories, or 20 or more residential units.

1 The reason for that is if there's a storm,
2 power outage, Sandy-like event, people will --
3 will be able to still have power in these larger
4 buildings, especially if it's senior housing.

5 I know I -- I used to work for an ambulance
6 company, and we had to do -- I'm sorry -- I used
7 to work for EMS, and we had to go and -- every
8 time there was a power outage, we had to go and
9 check every single one -- you know, and we would
10 have to climb -- you know, up the stairs, and --
11 and look, and make sure that everybody's oxygen
12 was working, and every -- you know, and -- and
13 unfortunately, some people die that way.

14 So, this is a safeguard against that, in
15 those kinds of constructions.

16 MR. JIMENEZ: The next Ordinance, titled
17 Chapter 223, Land Development, and Chapter 366,
18 Streets and Sidewalks.

19 This basically says where public utilities
20 are not to be located. This prohibits the
21 construction, placement, relocation of utility
22 boxes, meters, panels, devices or other similar
23 equipment on the structure adjacent to the
24 street.

25 So, basically, you can't put utilities in

1 the front of the house. It may be convenient for
2 PSE&G and other companies, but aesthetically, it
3 looks ugly, and it changes the character of the
4 neighborhood.

5 So, you don't want to see two meters in the
6 front of the house. Put it on the sides of the
7 house, which is standard way of doing it, but
8 this Ordinance prohibits it in that type of
9 development.

10 So, if you see an application with meters
11 in the front of the house, wherever -- and it's
12 not going to be right in front, it will be down
13 bottom, say no. It's on the sides of the house
14 or the rear, but it's usually the sides.

15 MS. NOVA: All right.

16 The next one is -- it's a Nuisance
17 Ordinance. It has to do with noise. Noise as a
18 nuisance.

19 The reason why this is important is because
20 we live in -- in a city where it's highly
21 populated, extremely dense, and basically -- you
22 know, you can hear everything that everyone is
23 doing right next -- you know, right next to you.
24 You're in an apartment, you can hear.

25 So, this is important when you're hearing

1 applications for different kinds of -- and just
2 to keep into consideration that -- that noise is
3 -- is a factor here in -- in Union City, because
4 we have so many people, and it is -- you know,
5 they're in close quarters.

6 So, that's something that you should always
7 just keep in the back of your mind. And if you
8 hear of anything where you -- and you might just
9 want to, and I don't know what your process is
10 here, but you might just want to bring it up.
11 You know, if you hear of something that you think
12 this thing is going to be making a lot of noise,
13 this kind of development.

14 And that also has to do with construction
15 hours.

16 CHAIRPERSON CAPIZZI: Hmm.

17 MS. NOVA: So, this is -- so, we have
18 specific construction hours.

19 Do you have that one?

20 MR. JIMENEZ: I don't have it.

21 MR. VELASQUEZ: They were just changed.

22 MS. NOVA: Right.

23 So, it's -- it's in the packet, but we have
24 specific construction hours.

25 However, it's possible that the -- the

1 contractor show up earlier than the -- than the
2 allotted hours, and they're making a lot of noise
3 while they're setting up. And they're trying --
4 you know, if the -- if the hours are six o'clock
5 in the morning, they're trying to get there by
6 five, to set up and make sure. And then, they're
7 going to start their banging -- you know?

8 So, this is just something that you should
9 -- you know, keep in the back of your mind,
10 something that you should mention, if -- if --
11 you know, during testimony, if you feel that
12 there's something that -- that peaks this issue.

13 MR. JIMENEZ: The next Ordinance is
14 amending Chapter 366 of the Streets and
15 Sidewalks, again.

16 Basically, this just changed the -- the
17 year reference, from a five year to a ten year
18 period. And this speaks about the -- if, in the
19 last five years, now they say ten years, if we
20 changed the sidewalk already, you can't just
21 excavate the sidewalk. And if you do, you got to
22 pay for it.

23 So, if a developer comes in -- before this
24 Board, seeking for new construction of a vacant
25 lot, well, we know there's no sewer lines or

1 | electricity lines, or what have you, and they are
2 | going to tear down the side -- rip the sidewalk
3 | up, they are responsible to pay for the new one.

4 | If they're going to have PSE&G go in there,
5 | they can't say, oh, that's not us, it's PSE&G.
6 | No, no. You are still responsible for that.

7 | Again, this is to keep the character of the
8 | neighborhood intact, and aesthetically, it looks
9 | more pleasing than having these holes that are
10 | not -- that are covered in tar, sometimes, not
11 | replaced with the proper cement that it should
12 | be.

13 | This requires them to do that, as it was.
14 | Replace it as it was, not as they want it to be.

15 | MR. VELAZQUEZ: Yeah, and it's not
16 | infrared, it's milling, paving, and from curb to
17 | curb.

18 | MR. JIMENEZ: Yes.

19 | MS. NOVA: Right.

20 | And you know, everybody knows living here
21 | that the Mayor -- Mayor and Commissioners have
22 | been doing all of the streets, and all the
23 | sidewalks, and -- and this is just basically why
24 | are we doing this, if they're going to rip it up
25 | -- you know, after -- they -- you know, within

1 five -- we switched it to ten years.

2 You know, it's very expensive.

3 CHAIRPERSON CAPIZZI: Um hum.

4 MS. NOVA: The City has spent a lot of
5 money on this. And there's no reason why -- you
6 know, if -- if you -- if you have to make a
7 change, and it's understandable, but you have to
8 cover it.

9 All right.

10 So, this is the one I was talking about
11 before. Construction hours.

12 So, this restricts the hours of
13 construction from 8:30 a.m. to six o'clock p.m.,
14 on Monday -- Monday through Friday. And 9:30
15 a.m. to 2:30 a.m. (sic) on Saturdays, and
16 prohibits construction on Sundays and legal
17 holidays.

18 So, I mean, sorry. That was a typo, 2:30
19 p.m., 9:30 a.m. to 2:30 p.m.

20 And this is just, basically -- I know
21 construction drives me crazy when I'm trying to
22 sleep, especially -- especially on Saturday
23 morning.

24 So, this is just a way to, listen, we don't
25 -- we don't want to stop construction, but we

1 | also have to -- the -- the public has -- and the
2 | people and the residents have to be able to enjoy
3 | their quiet -- you know, their quiet and -- and
4 | relax and -- and live their lives, as well.

5 | So, we just -- that was a change that we
6 | made to the construction hours.

7 | MR. JIMENEZ: The next one is amending
8 | Chapter 366, again, with the streets and
9 | sidewalks.

10 | This one relates back to what I just
11 | mentioned, about street openings.

12 | We have an Ordinance in place that
13 | basically says that prohibits sidewalk openings,
14 | cuts and excavations during the winter months of
15 | November through March, except in an emergency,
16 | obviously. Emergency we deal with separately.

17 | Why is that?

18 | Because again, if you do it in those winter
19 | months, it's going to remain open, it's going to
20 | remain unsightly until the summertime, when
21 | actually cement can be put down, and can properly
22 | harden, if you will.

23 | MS. NOVA: And -- and the next one is,
24 | basically, the exact same thing, only prohibiting
25 | the removal of underground fuel tanks.

1 So, again, it's an issue with opening the
2 streets, opening the sidewalks for specific
3 reasons, and then that being -- that having to
4 stay open because they can't fill it because it's
5 now wintertime.

6 So, we -- we're just not allowing it,
7 unless it's an emergency.

8 MR. JIMENEZ: The next Ordinance, I'm not
9 going to go through all the numbers, but
10 basically, it sets forth the fees involved for
11 the applications, and the permits, and what have
12 you.

13 Obviously, you know how these applications
14 are no longer the simple one and two, mom and pop
15 homes anymore. They're more complicated. And as
16 such, we have amended the fees accordingly.

17 You can review that as part of that one.

18 MS. NOVA: All right.

19 The next one is regarding preservation of
20 trees.

21 So, because we live in a city, and you
22 know, we have a lot of concrete, and the City is
23 always trying to put more green around, you
24 cannot -- you have to actually obtain a permit to
25 cut down a tree, and it requires replacement of

1 the tree once it's removed.

2 If you do not get that, there is a very
3 heavy fee for doing that, and you still have to
4 put the tree back up. So -- or the City will put
5 it up for you, and you have to pay for it.

6 So, that's -- that's basically because --
7 you know, we -- we can't -- we can't lose the
8 trees that we have now. You know?

9 CHAIRPERSON CAPIZZI: Is this just front
10 yards?

11 COMMISSIONER VALDIVIA: They cost -- they
12 cost money.

13 MS. NOVA: I'm sorry?

14 COMMISSIONER VALDIVIA: No, go ahead. Go
15 ahead. Continue.

16 MS. NOVA: Oh. So --

17 CHAIRPERSON CAPIZZI: Is this front yards?

18 MS. NOVA: This has to do -- so, this is
19 only on -- this would be front yards, and this
20 would be only -- I'm sorry. This is only on city
21 streets.

22 CHAIRPERSON CAPIZZI: Okay.

23 MS. NOVA: And -- and sidewalks.

24 CHAIRPERSON CAPIZZI: Um hum.

25 MS. NOVA: So, if you do it -- if it's your

1 own house, that's private property --

2 CHAIRPERSON CAPIZZI: Um hum.

3 MS. NOVA: -- so --

4 CHAIRPERSON CAPIZZI: Oh.

5 MS. NOVA: -- technically, you can do that.

6 It's -- it's if you try to cut the City trees --

7 CHAIRPERSON CAPIZZI: Got you.

8 MS. NOVA: -- or trees that are in public
9 accessways.

10 CHAIRPERSON CAPIZZI: Um hum.

11 MS. NOVA: Yeah.

12 MR. JIMENEZ: Some of these 500 gallon
13 containers actually start in the private
14 property, in the front yard, and they extend
15 through the sidewalk area, because obviously, the
16 nature of the homes in Union City are really
17 small and tight, so that's done more.

18 But if it's purely on their property, they
19 can go for broke. It's when they start touching
20 on the public area.

21 MR. ORTIZ: Now, that doesn't change some
22 -- sometimes, they're, for reasons of neighbors,
23 or things like that, backyards, for example, that
24 doesn't change our ability to require that they
25 do --

1 MS. NOVA: Correct.

2 MR. ORTIZ: -- some kind of vegetation or
3 something, for lack of better terms, because --

4 CHAIRPERSON CAPIZZI: Right.

5 MR. ORTIZ: -- maybe the privacy of the
6 neighbor, or something like that.

7 So, I don't want you to confuse this --

8 MS. NOVA: Absolutely.

9 MR. ORTIZ: -- with our ability to
10 condition certain things like that.

11 MS. NOVA: Definitely.

12 MR. JIMENEZ: Next one's amendment to
13 Chapter 18, Installation of Emergency Access Key
14 Lock Boxes.

15 This -- this Ordinance basically says in
16 certain homes, in certain structures that they
17 have a lock box in the front, which allows the
18 fire department, or emergency services to access
19 the property.

20 This happens in these multi-unit buildings,
21 where, obviously, the landlord, or the
22 maintenance company's not available. And they
23 can't gain access to these buildings, and/or
24 unoccupied buildings in the town where, again, if
25 a fire starts, they can't get in.

1 This provides -- this requires them now to
2 have a lock box in front, where the -- it's also
3 -- the building's also registered. It allows
4 fire department, or other emergency personnel,
5 access into the building, if the need requires.

6 MS. NOVA: All right.

7 And then, the last one, which I'm -- I'm
8 not going to go over with you guys, but we just
9 wanted to briefly -- you know, I've been here a
10 few times, before the Board, regarding COAH. And
11 -- and you know, we just wanted to -- I'm not
12 sure if you understand exactly what COAH used to
13 be.

14 So, essentially -- you want to -- you want
15 to just explain that one?

16 MR. JIMENEZ: Sure.

17 COAH sets forth what municipality -- COAH
18 stands for Council on Affordable Housing, and the
19 Council on Affordable Housing would set forth, in
20 each municipality, depending on the number of
21 residents or the population, how much affordable
22 housing you were required to have, as a
23 municipality.

24 For a number of years, COAH was not doing
25 their -- what they were prescribed to do, as an

1 agency, and no one was complying with their
2 requirements.

3 Subsequently, in the last couple of years,
4 Supreme Court did a ruling; said, hey, by the
5 way, now we're going to let the courts decide.

6 So, now -- not -- COAH's not to going to
7 decide now the court's going to decide, so a
8 judge, that really has no understanding,
9 necessarily, of your particular area, is going to
10 say what you need, through a litigation process.

11 That's why you see our colleague, Mr.
12 McNamara here, because it's become a hotbed, and
13 you will hear about it throughout the State of
14 New Jersey, of many municipalities, now, having
15 to require with what a judge is saying.

16 Now, yes, you must have this additional
17 number of units.

18 So, it's hard for a municipality to balance
19 what a developer wants, because he might want the
20 COAH numbers, and what the municipality want --
21 might want.

22 But, again, it just determines the
23 affordable housing in a community.

24 MS. NOVA: And -- and as you all already
25 know, because we've been here, and we've -- and

1 | they've explained it to you -- you know, we're
2 | going before the judge, regarding our -- our
3 | application for -- our fair share housing
4 | application. And that's, basically, going to
5 | outline exactly how many affordable housing
6 | units, depending on the -- the kinds of
7 | development that you're going to have. And it's
8 | going to be a -- you know, a sliding scale,
9 | depending on the amounts.

10 | So, you're all very familiar with that
11 | already.

12 | MR. ORTIZ: Any idea on the stay of the
13 | COAH rules? What's taken place or --

14 | MS. NOVA: For -- for the City, right now?

15 | MR. ORTIZ: No.

16 | MS. NOVA: Or in general?

17 | MR. ORTIZ: Generally, statewide, or --
18 | (indiscernible) -- in particular?

19 | MS. NOVA: I -- I heard that they -- so,
20 | they -- there's a case right now, Judge Wolfson,
21 | in New Brunswick, the -- they had an issue where,
22 | basically, they believe there's a lot of
23 | impropriety going on, and he had some conflict of
24 | interest. He had some conflict of interest in
25 | his -- in his rulings, because he -- he then,

1 | apparently, it seems that his son used to work
2 | for the developer. And he -- he was very
3 | favorable to developers.

4 | So -- and then, subsequently, he went and
5 | went to work for that same company, after the
6 | fact.

7 | So, there -- there's some issues right now
8 | there. And I believe that New Brunswick is -- or
9 | South Brunswick is leading the -- the charge on
10 | trying to overturn those rulings.

11 | However, honestly, for our purposes here,
12 | with the City, it doesn't really matter for our
13 | purposes, because we -- we don't real -- we don't
14 | have, as my colleague has said -- said in the
15 | past, we don't have an actual obligation. We
16 | have a rehab obligation.

17 | And frankly, the Mayor and the Board of
18 | Commissioners are very welcome to doing
19 | affordable housing in the City. And -- and all
20 | -- and senior housing, and veterans housing, and
21 | all that -- and all those other kind of housing.

22 | So, for our purposes in the City, it
23 | doesn't really make a difference. But in some
24 | other -- in the suburban cities it definitely --

25 | CHAIRPERSON CAPIZZI: Um hum.

1 MS. NOVA: -- makes a difference.

2 All right. So, do you guys have any
3 questions?

4 Anything that --

5 Did we teach you anything?

6 CHAIRPERSON CAPIZZI: Sure. Yes.

7 MS. NOVA: I know there was a lot of
8 Ordinances.

9 I think that this is a good starting point
10 and I think from now on, what we should probably
11 do is every time there's an Ordinance that has to
12 do with the Planning Board, we will be forwarding
13 it over to counsel, and he will review it with
14 you, so that you -- you're aware of the work that
15 the City is doing, and -- and the things that you
16 should be paying attention to during the
17 applications, and asking questions about. You
18 know?

19 MR. ORTIZ: Let me -- and not only, I
20 think, what we need to really emphasize --
21 listen, I don't want to keep you any longer than
22 I have to, but I think one very, very big issue
23 is traffic, and we need to take that into
24 consideration going forward, as to the effect of
25 any kind of -- anything we approve, and the

1 traffic that it's going to create, because I
2 think it's getting worse, and worse, and worse.

3 And I don't want to speak on behalf of the
4 Commissioners and the Mayor, but I think that's
5 become a concern.

6 Am I right, Commissioner, as far as traffic
7 goes?

8 COMMISSIONER VALDIVIA: Yeah.

9 I -- I wanted to ask him a question on --

10 MS. NOVA: Yeah. Sure.

11 COMMISSIONER VALDIVIA: There's a big
12 project on Manhattan Avenue, it hasn't come in
13 front of the Planning Board yet --

14 MS. NOVA: Um hum.

15 COMMISSIONER VALDIVIA: -- but it has to be
16 --

17 MS. NOVA: The redevelopment.

18 COMMISSIONER VALDIVIA: Yeah. It has to be
19 approved here, first.

20 MS. NOVA: Yes.

21 COMMISSIONER VALDIVIA: Then, it goes to
22 Board of Commissioners.

23 I shouldn't be sitting down at the -- at
24 the Planning Board when that happens, or what's
25 your advice? Or what's should I do?

1 MS. NOVA: That's --

2 MR. ORTIZ: I would recommend --

3 MS. NOVA: That's correct.

4 MR. ORTIZ: I would recommend --

5 COMMISSIONER VALDIVIA: I was going to ask
6 you that, too.

7 MR. ORTIZ: My personal opinion is that
8 just to avoid anything, recuse yourself, because
9 --

10 MS. NOVA: That's right.

11 MR. ORTIZ: -- you're going to be there at
12 the Commissioners, to take that last review of
13 it. So, I -- Commissioner, I --

14 MS. NOVA: Yes. Definitely.

15 MR. ORTIZ: I would --

16 MS. NOVA: I would --

17 MR. ORTIZ: -- recuse myself.

18 MS. NOVA: -- agree with that.

19 COMMISSIONER VALDIVIA: No. No. Probably
20 want to ask any questions. You're --

21 MS. NOVA: Absolutely.

22 COMMISSIONER VALDIVIA: You're a member of
23 the Board of Commissioners, which -- what do you
24 think? You know I don't --

25 MR. JIMENEZ: And that's why you don't want

1 to put yourself in that position --

2 COMMISSIONER VALDIVIA: That's what I was
3 going to --

4 MR. JIMENEZ: -- here.

5 You're not -- they're not going to ask you
6 questions as a Planning Board member. They're
7 going to try to --

8 MS. NOVA: Um hum.

9 MR. JIMENEZ: -- get some information, you
10 as a Commissioner.

11 So, rather than put yourself in any type of
12 target in any way, you respectfully are going to
13 recuse yourself, disqualify yourself from that
14 particular hearing, and they can talk to you at
15 the town level, Commissioner meeting.

16 MR. ORTIZ: And then, everybody's on the
17 same level. They know that they're asking you --

18 MS. NOVA: Right.

19 MR. ORTIZ: -- as a Commissioner.

20 MS. NOVA: Well, and -- and --

21 MR. JIMENEZ: Excellent.

22 MS. NOVA: And you wouldn't have any other
23 information that you -- that you wouldn't have
24 had, you know?

25 You're going to have the same information

1 | that the other Commissioners have, --

2 | CHAIRPERSON CAPIZZI: Hmm.

3 | MS. NOVA: -- because if you were here,
4 | you'd have extra information, because you were at
5 | the Planning Board, you know?

6 | CHAIRPERSON CAPIZZI: Um hum.

7 | MS. NOVA: So, you would definitely want to
8 | recuse on the Planning Board.

9 | The other -- the other issue that I wanted
10 | -- you know, regarding traffic is, I know that
11 | these are very technical, little things, but I
12 | want you guys to know that a lot of times when --
13 | when we're trying to figure out what happened, or
14 | what your thoughts were, as a Board, regarding a
15 | specific project, we actually go back and read
16 | the transcripts.

17 | I go back and read the transcripts from ten
18 | years ago, trying to understand what the idea was
19 | behind something.

20 | So, one of the things, and it's not
21 | necessarily any of the members that are here now,
22 | because it was years ago, but -- but one -- one
23 | of the issues is sometimes it seems like, from --
24 | from when I -- when I read the transcripts that
25 | there's a thought, and I see the thought going,

1 but then it kind of ends, and -- and it doesn't
2 -- it's sort of like a recommendation, as opposed
3 to -- you know, this -- this is what you -- you
4 should do.

5 And that -- and that has to do with, for
6 example, if -- if --

7 Okay, this is a very specific one that I
8 can tell you guys. It was a long time ago.

9 So, the Walgreens on 33rd Street, okay, one
10 of the questions was, was -- was there a promise
11 by the -- by the people that developed it that
12 the -- that -- that they would allow for
13 residents to use the parking --

14 CHAIRPERSON CAPIZZI: Um hum.

15 MS. NOVA: -- area? And --

16 CHAIRPERSON CAPIZZI: Hmm.

17 MS. NOVA: -- it's years ago. Memories
18 have faded. Some people remember one thing, some
19 people remember another thing.

20 However, the -- so, I actually went back
21 and read hundreds and hundreds of pages, and you
22 could tell that the thought is there, and it was
23 discussed, but that it never actually was clear
24 whether they said yes or no.

25 So, just -- just that's something that when

1 | you're -- when you're hearing the testimony, when
2 | it comes to traffic, trees, and all that other
3 | kind of stuff, greenery, just -- just think about
4 | that, because it -- it's like everybody had the
5 | same idea, and -- and everybody's talking about
6 | it, it never actually closes, and nobody actually
7 | says yes or no --

8 | CHAIRPERSON CAPIZZI: So, we have to say
9 | it.

10 | MS. NOVA: -- that they're going to do it.

11 | CHAIRPERSON CAPIZZI: So, if we're going to
12 | approve this application, it's with --

13 | MR. JIMENEZ: With the following --

14 | CHAIRPERSON CAPIZZI: -- these conditions.

15 | MR. JIMENEZ: Exactly. And --

16 | CHAIRPERSON CAPIZZI: And it has -- it has
17 | to --

18 | MR. JIMENEZ: And enumerate them.

19 | CHAIRPERSON CAPIZZI: Yes.

20 | MR. JIMENEZ: Don't say --

21 | CHAIRPERSON CAPIZZI: We have to --

22 | MR. JIMENEZ: -- and the conditions we
23 | approve.

24 | CHAIRPERSON CAPIZZI: No, no. We have to
25 | say --

1 MR. JIMENEZ: Say --

2 CHAIRPERSON CAPIZZI: -- exactly what they
3 are.

4 MR. JIMENEZ: And -- and that -- this goes
5 for --

6 CHAIRPERSON CAPIZZI: Right.

7 MR. JIMENEZ: -- favorable and unfavorable.
8 Say --

9 CHAIRPERSON CAPIZZI: Right.

10 MR. JIMENEZ: I am --

11 CHAIRPERSON CAPIZZI: Okay.

12 MR. JIMENEZ: -- objecting to this
13 application because, in my feeling, that is a
14 highly trafficked area, it's dangerous, people
15 cross there often, there's a danger for
16 pedestrian traffic, there's going to be cars
17 coming out of this new development --

18 CHAIRPERSON CAPIZZI: Um hum.

19 MR. JIMENEZ: -- which may -- they can't see
20 their way going out.

21 List them. Don't just assume that -- you
22 know what? It's a bad -- that's a bad
23 intersection.

24 CHAIRPERSON CAPIZZI: Um hum.

25 MR. JIMENEZ: I don't like it. Give -- try

1 -- if you're able to --

2 MS. NOVA: Yeah.

3 MR. JIMENEZ: Because it helps us defend it
4 later on, or the counsel that's defending this
5 later on.

6 CHAIRPERSON CAPIZZI: Right.

7 MR. JIMENEZ: Not just seeing something
8 that says that's a bad area for -- to have a
9 exit.

10 Well, why? Because you're going out and
11 there's a street light less than 20 feet away,
12 and then you're going to -- it's a mess.

13 So, please, list your concerns. But if you
14 want, in a positive, if you want a tree there,
15 say, counsel, we want to make sure you plant.

16 MS. NOVA: How many trees are you going to
17 plant?

18 MR. JIMENEZ: Five trees.

19 MS. NOVA: As opposed to saying, for
20 example, you're going to plant a lot of trees
21 there.

22 CHAIRPERSON CAPIZZI: Hmm.

23 MS. NOVA: You know? Kind of lock them in
24 to something because --

25 CHAIRPERSON CAPIZZI: Um hum.

1 MS. NOVA: -- what happens is that years
2 later --

3 COMMISSIONER VALDIVIA: See, I sat on the
4 Board of Adjustment --

5 CHAIRPERSON CAPIZZI: Hmm.

6 COMMISSIONER VALDIVIA: -- and almost all
7 the applications, there was an expert -- traffic
8 expert. You know? Testifying on the hours of
9 peak hours.

10 MS. NOVA: Well --

11 COMMISSIONER VALDIVIA: I don't think we
12 have that in the --

13 CHAIRPERSON CAPIZZI: Sometimes.

14 COMMISSIONER VALDIVIA: -- Planning Board.
15 Do we? We do?

16 CHAIRPERSON CAPIZZI: Sometimes we have
17 traffic experts.

18 MR. ORTIZ: Sometimes, we do.

19 COMMISSIONER VALDIVIA: Do? They haven't
20 been around for --

21 MS. NOVA: And that's something that you
22 can ask for, right?

23 I mean --

24 MR. ORTIZ: Well, yeah. No. Absolutely.

25 On the -- look, I'm not -- for someone

1 | that's going to build a three family house, I'm
2 | not --

3 | MS. NOVA: Right.

4 | MR. ORTIZ: -- saying that we need to have
5 | that -- that person -- you know, have an expert
6 | study the traffic.

7 | However, in the next few months, there's
8 | going to be some large projects that are on the
9 | horizon, that we really need to take a look at
10 | the effect of -- that that development's going to
11 | have on a particular area in the city.

12 | MS. NOVA: Right.

13 | And use -- and use your personal experience
14 | with that area.

15 | You guys all know the areas. Use your
16 | personal experience when you're asking them
17 | questions.

18 | You know?

19 | Don't just assume -- you know, if they're
20 | bringing the experts, they're probably skewed
21 | towards their side.

22 | Right?

23 | CHAIRPERSON CAPIZZI: Um hum.

24 | COMMISSIONER VALDIVIA: No, they would
25 | always at the Board of Adjustment, I remember the

1 Chairman would always say that the parking is for
2 the residents of the building.

3 MS. NOVA: Right.

4 COMMISSIONER VALDIVIA: But unfortunately,
5 you can't enforce that.

6 MS. NOVA: Right. So people are parking
7 outside?

8 COMMISSIONER VALDIVIA: I know people that
9 rent --

10 MS. NOVA: Yeah.

11 COMMISSIONER VALDIVIA: You know, rent the
12 space in --

13 MS. NOVA: Yeah.

14 COMMISSIONER VALDIVIA: -- the building.
15 You know --

16 MS. NOVA: That's a big issue. Yeah.

17 MR. JIMENEZ: And then, again, with two or
18 three family homes. If you -- if there's a three
19 -- three parking spaces only, you can say, I'd
20 like the Board Attorney to put a deed
21 restriction.

22 Part of your Resolution, so that when they
23 -- so they don't get permits until they submit a
24 -- a deed, a new deed for the property, which
25 says this is -- parking space A is dedicated to

1 parking unit one.

2 You can do those things. And if you have a
3 question, ask your competent Board Attorney,
4 because he'll make it work.

5 CHAIRPERSON CAPIZZI: Um hum.

6 MR. JIMENEZ: He can fit a square peg in a
7 circle hole.

8 CHAIRPERSON CAPIZZI: Um hum.

9 MR. JIMENEZ: If you ask him to.

10 MS. NOVA: Yeah, that's basically, it's --
11 it's just -- you're asking the right questions,
12 and -- and the Board back then was asking the
13 right questions.

14 It's more like the -- the vagueness of
15 things. You know, just they always -- and I saw
16 this, and I've read lots of transcripts, and --
17 and basically they all say the same thing.

18 Yes, okay, we'll think of that. That's a
19 great idea. We'll think of that, but --

20 CHAIRPERSON CAPIZZI: Mmm.

21 MS. NOVA: -- they don't actually lock them
22 into something.

23 CHAIRPERSON CAPIZZI: Mmm.

24 MS. NOVA: So, then -- so, then -- you
25 know, 20 years later, another me is reading the

1 same thing, and now we --

2 CHAIRPERSON CAPIZZI: Um hum.

3 MS. NOVA: -- have nothing to enforce it
4 with.

5 CHAIRPERSON CAPIZZI: Um hum.

6 MS. NOVA: We have no idea what -- what the
7 thought was behind it.

8 MR. JIMENEZ: Or a developer says, I'm not
9 going to do that.

10 MS. NOVA: Right.

11 MR. JIMENEZ: It's not in the Resolution.

12 CHAIRPERSON CAPIZZI: Right.

13 COMMISSIONER VALDIVIA: That's not --

14 MR. JIMENEZ: So --

15 COMMISSIONER VALDIVIA: That's not a
16 problem.

17 CHAIRPERSON CAPIZZI: Right.

18 MR. JIMENEZ: Exactly.

19 MS. NOVA: All right?

20 CHAIRPERSON CAPIZZI: Um hum.

21 MS. NOVA: Everybody good? Any other
22 questions?

23 MR. JIMENEZ: Thank you so much for your
24 time --

25 MS. NOVA: All right.

1 CHAIRPERSON CAPIZZI: Thank you very much.

2 COMMISSIONER VALDIVIA: Thank you.

3 MR. JIMENEZ: -- and attention.

4 CHAIRPERSON CAPIZZI: Thank you.

5 MS. NOVA: Thank you, guys.

6 THE SECRETARY: Thank you, Krystle.

7 COMMISSIONER VALDIVIA: Thank you.

8 THE SECRETARY: Thank you.

9 COMMISSIONER VALDIVIA: Thank you.

10 CHAIRPERSON CAPIZZI: Yeah.

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1 **ADJOURNMENT:**

2

3 THE SECRETARY: There being no other
4 application tonight's agenda, can I have a motion
5 to end tonight's meeting?

6 CHAIRPERSON CAPIZZI: Motion.

7 THE SECRETARY: Motion by Mrs. Capizzi.

8 COMMISSIONER VALDIVIA: Second.

9 THE SECRETARY: Second by Commissioner
10 Valdivia.

11 MR. ORTIZ: Can be all in favor.

12 THE SECRETARY: All in favor?

13

14 (Whereupon, there was a chorus of ayes.)

15

16 THE SECRETARY: The ayes have it.

17 Thank you.

18 Have a good night.

19 Let the record show that the meeting has
20 ended.

21 Thank you.

22

23 (Whereupon, the proceedings were concluded
24 at 7:38 p.m.)

25

1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

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6

7 I, DEBRA A. KASZNIAK, assigned transcriber,
8 do hereby affirm that the foregoing is a true and
9 accurate transcript in the matter of the REGULAR
10 MEETING of the UNION CITY PLANNING BOARD heard on
11 Tuesday, April 25, 2017 and digitally recorded.

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