

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

Wednesday

March 1, 2000

+ + + + +

The Public Meeting convened in Room 220,
441 4th Street, N.W., Washington, D.C. 20001,
pursuant to notice at 9:30 a.m., Sheila Cross Reid,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID, Chairperson
ROBERT N. SOCKWELL, Vice Chairperson
MS. ANNE RENSHAW, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD, Commissioner

OFFICE OF ZONING STAFF PRESENT:

Sheri Pruitt, Secretary, BZA
Beverly Bailey, Office of Zoning
Paul Hart, Office of Zoning
John Nyarku, Office of Zoning

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OTHER AGENCY STAFF PRESENT:

Mr. Rodney Moulden, National Capital Planning
Commission

D.C. OFFICE OF CORPORATION COUNSEL

Marie Sansone, Esq.

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

(9:40 a.m.)

CHAIRPERSON REID: The meeting will please, the meeting will please come to order. March 1st, it will be the BZA meeting, the March 1st, year 2000. Thank you.

Ms. Pruitt?

MS. PRUITT: Good morning Madam Chair. Before you are the minutes from the public meeting, and also bench minutes for February 2nd, 9th, 16th, and 23rd. There is one change on the, I had to call a proxy for Ms. Mitten, and concerning the February 2nd public meeting minutes, Mr. Hood is listed as Zoning Commission Member present, it should be Mrs., Ms. Mitten. So we will make that correction.

CHAIRPERSON REID: Okay. All right, can I have a motion, or I'll move that --

MEMBER RENSRAW: I so move.

CHAIRPERSON REID: And you're moving that-

-

MEMBER RENSRAW: It's either the change be made or that we're moving the --

CHAIRPERSON REID: You're moving that the minutes be approved --

MEMBER RENSRAW: -- the minutes be

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1 approved --

2 CHAIRPERSON REID: -- and amended as --

3 MEMBER RENSHAW: Exactly, uh-huh.

4 CHAIRPERSON REID: -- as indicated by Ms.
5 Pruitt.

6 MEMBER RENSHAW: Yes.

7 MS. PRUITT: Are we talking about all of
8 them, or you want to do them individually?

9 CHAIRPERSON REID: No, no, no. That's not
10 what I'm going to say. Some, the new Board Members,
11 sometimes what we do is rather than going over each
12 set of minutes individually, we do it by what we call
13 consent calendar.

14 And rather than taking, you know, one or
15 two or three votes, we just do it all together, and
16 if there is no objection, or there's not anything
17 that's glaringly omitted or any, any problems with
18 it, it's more proficient sometimes just to do it by
19 consent calendar.

20 And if there is no objection, Mrs.
21 Renshaw would you like to do it in that matter?

22 MEMBER RENSHAW: Yes, I so move.

23 CHAIRPERSON REID: Okay.

24 MS. PRUITT: Seconded by, I'm sorry?

25 COMMISSIONER HOOD: Madam Chair can we

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1 just make sure that we include what the necessary
2 corrections, because that was an issue about my name
3 being on the February 2nd --

4 CHAIRPERSON REID: Right.

5 COMMISSIONER HOOD: If Ms. Renshaw would
6 have said that has a friendly amendment.

7 MEMBER RENSHAW: Yes, I will.

8 CHAIRPERSON REID: Yes, she --

9 COMMISSIONER HOOD: Okay, I'll second the
10 motion.

11 CHAIRPERSON REID: Okay. That was, that
12 February 2nd was rather straight forward wasn't it.
13 Since everything was dismissed. Okay. And, the
14 morning, part of it anyway.

15 Okay --

16 MS. PRUITT: Call the vote, the actual
17 vote.

18 CHAIRPERSON REID: All in favor?

19 (Chorus of ayes.)

20 Opposed?

21 MS. PRUITT: Staff will record the vote as
22 five to zero to approve. Motion made by Ms. Renshaw
23 and seconded by Mr. Hood with the corrections as
24 noted. And, there actually aren't any cases to be
25 decided, but there are some, one to be discussed, and

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1 that's the application of 16542, the District of
2 Columbia Public Schools/Georgetown Flea Market,
3 pursuant to 11 DCMR 3103.2, for a variance under
4 Subsection 330.5 to continue to operate the ?Sales of
5 Antiques and Collectibles? on school parking lot -
6 Sundays only in an R-3 District at 1819 35th Street,
7 N.W. (Square 1297, Lot 850).

8 At its February hearing, the Board
9 decided that it needed additional information before
10 they could move forward. One was that, one item was
11 a brief or history from Mr. Shearer (phonetic)
12 concerning why he believes it's, was, is in a correct
13 jurisdiction for this to be before the Board.

14 A copy of the legislation. The
15 secretary, we were, this, I was to get in touch with
16 the Zoning Commission to talk about the legal issues,
17 and in fact I believe that was really handled more in
18 the Joint meeting that occurred right after that with
19 Corp. Counsel.

20 And then also included was advise from
21 Corp. Counsel which was done at that meeting. And we
22 tried to get testimony from public school systems.
23 We put in several calls but have not gotten any
24 returned. So we can continue to do so.

25 CHAIRPERSON REID: Ms. Pruitt, you said

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1 that, the first item that you, that you mentioned was
2 that we had requested a report from Mr. Shearer.

3 MS. PRUITT: Yes.

4 CHAIRPERSON REID: And that's not, I
5 didn't see that on this, on my --

6 MS. PRUITT: It actually is written as
7 History/Description of Flea Market operation.

8 MR. HART: Madam Chair, if you, you would
9 see a revised, there's a revised agenda to your
10 right.

11 CHAIRPERSON REID: No, I don't --

12 MR. HART: To your right.

13 CHAIRPERSON REID: Oh, we have a new
14 agenda?

15 MR. HART: Yes, it's revised.

16 CHAIRPERSON REID: Oh. Well, it would
17 have been nice if someone had let me know that we had
18 a new agenda. Thank you. All right.

19 (Pause.)

20 Okay, go ahead. Were you done?

21 MS. PRUITT: Yes, I'm, these are the, all
22 these items are in your package for discussion, or
23 whatever you'd like to do with them. Oh, I'm sorry,
24 one other note. We did say determine why the ANC,
25 this area didn't respond, and we did some research.

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1 There is an appeal for this site and an
2 application for this site. The appeal was originally
3 scheduled for January 19th and then that was
4 continued to June 5th. In that, in the appeal
5 application there is an ANC report.

6 And when you read the report they're kind
7 of confusing the appeal and the application all in
8 one. So we included the ANC report that was
9 associated with the appeal in this, so that you would
10 understand that they are in support of it, but just
11 didn't quite --

12 CHAIRPERSON REID: Okay, now, we did have
13 discussion with Corp. Counsel in regards to this --

14 MS. PRUITT: Correct.

15 CHAIRPERSON REID: -- and, I would just
16 need, I think we just need to kind of, just some
17 further clarification if Board Members have
18 questions, we can kind of move forward with this.

19 And the question I had was, they had
20 asked for a postponement, pending the legislation.
21 The, what I need to understand is the, the status of
22 the legislation at this time is what?

23 MS. PRUITT: It's temporary. They're
24 pursuing temporary legislation.

25 CHAIRPERSON REID: Emergency legislation.

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1 MR. PRUITT: Well there's emergency, now
2 there's temporary.

3 CHAIRPERSON REID: I'm sorry?

4 MS. PRUITT: I believe there was emergency
5 and now there is temporary legislation pending.

6 CHAIRPERSON REID: Okay, what's the
7 difference?

8 MS. P: To be honest, I'm not sure.

9 CHAIRPERSON REID: Okay, that's good.
10 Does anyone know?

11 MS. SANSONE: Madam Chair?

12 MR. HART: It's temporary, oh, go ahead,
13 let Corp. Counsel --

14 MS. SANSONE: The emergency legislation
15 would have become effective upon approval and review
16 by the Control Board. The temporary, for 90 days.
17 The temporary legislation would be effective for a
18 period of 225 days.

19 It's not subject to committee hearings at
20 the D.C. Council but it does require review and
21 approval by the Financial Responsibility and
22 Management Assistance Authority and also by Congress.

23 But it would be only for 225 days, then
24 it would be necessary to pursue permanent legislation
25 if they wish to continue.

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1 I did not see the temporary legislation
2 in the, I did a quick check of the Council's website
3 yesterday, but perhaps that's something that could be
4 clarified with the Applicants if they have a copy of
5 that Bill.

6 CHAIRPERSON REID: Uh-huh. The emergency
7 legislation was approved by the Control Board?

8 MS. SANSONE: Yes, Madam Chair, we had
9 that in our file at the last hearing. That was
10 approved, and it's --

11 CHAIRPERSON REID: And then, and that made
12 it temporary? That put it in a temporary status?

13 MS. SANSONE: No, Madam Chair, that would
14 be the emergency law, and it's only effective for 90
15 days.

16 CHAIRPERSON REID: No, okay, no, that's
17 not, but I'm still a little confused. What I'm
18 asking is, the emergency legislation, it has been
19 approved by the Control Board. Now once that was
20 done, then how, then how did it get to be in
21 temporary status?

22 MS. SANSONE: Madam Chair, that is the
23 question. I don't, I was unable to find a temporary
24 Bill. Perhaps the Applicant knows of one, or perhaps
25 Ms. Pruitt knows of one.

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1 CHAIRPERSON REID: So we have some input?

2 MS. SANSONE: But I don't have one.

3 MS. PRUITT: That's your call Madam Chair.

4 CHAIRPERSON REID: Okay, Board Members,
5 unless you all are clearer about this than I am, then
6 I would like to request from the applicant some more
7 information. Unless there's objection from anyone.

8 MR. HART: No.

9 CHAIRPERSON REID: Sheri --

10 MS. PRUITT: We've been seeking a request
11 that they provide it to us. We shouldn't do it at
12 the meeting.

13 CHAIRPERSON REID: Well, I just wanted to
14 ask, is this Mr. Shearer have any, a copy of this
15 temporary legislation or can give us an, give us some
16 status.

17 MS. PRUITT: We can provide that for you.
18 But not at this particular meeting.

19 CHAIRPERSON REID: Does he have it? Can
20 you have, please, just turn around and ask him?

21 MS. PRUITT: No.

22 MEMBER RENSHAW: Madam Chair --

23 CHAIRPERSON REID: Ask him, excuse me one
24 second Ms. Renshaw. Can you ask him, is there such a
25 document in existence?

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1 MS. PRUITT: Mrs., this really shouldn't
2 be, I mean this isn't the correct procedure. We, we
3 can ask them, we can get back to you at the next, we
4 can get back to you at the public hearing with this
5 information if that's what --

6 If you have a list of questions, I will
7 try to resolve and get answers to them prior to the
8 public hearing.

9 CHAIRPERSON REID: Well, I mean I don't
10 understand why not. I don't understand why you
11 couldn't just tell us whether or not there's a, such
12 a document in existence because we can't do our work.

13 I mean we have to have information before
14 us before we can make intelligent decisions and
15 that's predicated upon having adequate information
16 which we don't. Yes, Ms. Renshaw?

17 MEMBER RENSHAW: Madam Chair, we can
18 contact the office of documents upstairs and have
19 that information almost immediately. A staff person
20 could do that right away.

21 CHAIRPERSON REID: Well, thank you Ms.
22 Renshaw, that's a given. But the point I'm making is
23 that when we have these meetings, the point, the
24 purpose of the meeting is to be able to conduct our
25 business and, conducting our business is predicated

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1 upon having that information that we need to be able
2 to do so.

3 And unless someone else has some
4 comments, I don't think we can do anything today.

5 COMMISSIONER HOOD: Madam Chair, I want to
6 make sure that we're clear.

7 CHAIRPERSON REID: Uh-huh.

8 COMMISSIONER HOOD: I'm not exactly sure
9 what we're trying to entertain. I think what's, I'm
10 not sure what, what. I think what's in front of us
11 is more or less whether or not we should act on this
12 or should we delay because of the pending
13 legislation.

14 Now, I believe at the Joint Meeting we
15 found out what was legitimate and what wasn't. So I
16 don't see any reason for us to delay this. I think
17 we're ready to move forward with what we have in
18 front of us.

19 Unless there's some unreadiness. I'm not
20 sure what, what the question is that's on the table.
21 What we're looking for that we don't already have.

22 CHAIRPERSON REID: Any other comments?

23 VICE CHAIR SOCKWELL: Well I mean it
24 appears that we are discussing whether or not there
25 is a second piece of legislation that bears upon the

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1 applicability of the legislation period to what we
2 are here to deliberate.

3 And my only issue is that notwithstanding
4 the legislation I assume that we're charged to
5 determine whether or not, based upon the law that we
6 are enforcing, this is acceptable or not acceptable.

7 CHAIRPERSON REID: Well, my read on this
8 whole situation is that there is an appeal of the
9 Zoning Administrator's decision in this regard, and
10 in the interim, when they had the hearing, there was
11 presented to us some evidence that there hadn't been
12 legislation that was emergency legislation that was
13 remaining to this particular issue, that in fact
14 would remove that particular parcel, specific parcel,
15 from zoning.

16 So, that being the case it would become a
17 matter of right which would not have to come before
18 us. Then, that legislation was passed by the Control
19 Board, and then, what I'm trying to ascertain is this
20 temporary status.

21 Now, I don't know, I don't understand
22 what temporary means. If temporary means that it's
23 something that is -- conclusion that will be passed,
24 then that's one thing, but temporary means that it
25 may or may not be passed then we would then postpone

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1 a decision.

2 I would suppose it would be a postponed
3 decision until we determine whether or not the
4 legislation became permanent. And that's, it's a
5 very unusual position to put us in --

6 MS. PRUITT: Madame?

7 CHAIRPERSON REID: We've never been here
8 before, so it's a little murky.

9 MS. PRUITT: Madam Chair that's why the
10 applicant was requesting a postponement until June
11 5th because they were hoping that all of those issues
12 would be resolved, either sink or swim and you could
13 make a decision there.

14 CHAIRPERSON REID: But given, given our,
15 when we had our Joint Meeting, as Mr. Hood just
16 mentioned, the information that was given to us at
17 that time became another matter altogether.

18 MS. PRUITT: Well I believe, and my
19 understand was that the issue was whether or not the
20 Counsel could do legislation that would take it out
21 of the hands of Zoning. And it was, my understanding
22 was that yes, it can do so, it does so very rarely.
23 They've done it with the Hurt (phonetic) home and the
24 911 at --

25 CHAIRPERSON REID: Uh-huh.

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1 MS. PRUITT: And with the trash transfer,
2 the 500 foot.

3 CHAIRPERSON REID: Uh-huh.

4 MS. PRUITT: So it has been done, it is
5 legal.

6 CHAIRPERSON REID: Uh-huh.

7 MS. PRUITT: It is not a usurping of your
8 powers.

9 CHAIRPERSON REID: Uh-huh.

10 MS. PRUITT: And so that was my
11 understanding of what your major question was, prior
12 to then determining --

13 CHAIRPERSON REID: Okay.

14 MS. PRUITT: -- what, basically what this
15 is in our jurisdiction.

16 CHAIRPERSON REID: Okay.

17 COMMISSIONER HOOD: Madam Chair with that
18 clarification there is some uncertainties on both
19 lines because with the other case, the -- issue, then
20 you come back to the Zoning Regulations. So, but in
21 this issue, I think that the Council can do it and I
22 believe that the --

23 CHAIRPERSON REID: Uh-huh.

24 COMMISSIONER HOOD: -- temporary status
25 is 200 and some days.

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1 MS. PRUITT: The temporary goes to the
2 time, the days.

3 COMMISSIONER HOOD: Which takes us,
4 unfortunately, and I disagree with what's there. It
5 takes us past the date in which the Applicant is
6 asking for. But then that is a question that the
7 Zoning Commission needs to revisit.

8 Can the Council legislate zoning?
9 Sometime they can from what I'm understanding,
10 sometime they can't. And to me, that is, is
11 something, there's some inconsistencies here, which
12 we need further clarification, but for this
13 particular case, the temporary legislation and the --
14 postpone it, temporary legislation is already in
15 effect.

16 That will supercede the, that's going
17 into 200 and what was it --

18 MS. PRUITT: 60.

19 COMMISSIONER HOOD: 260 days? And he's
20 asking for, they're asking for a postponement until
21 June the 7th I believe. So I just don't see no
22 reason for us to delay this any further, we just need
23 to move forward.

24 VICE CHAIR SOCKWELL: Let me, let me --

25 CHAIRPERSON REID: Okay.

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1 VICE CHAIR SOCKWELL: Madam Chair?

2 CHAIRPERSON REID: Yes.

3 VICE CHAIR SOCKWELL: Let me say this.
4 Part of, part of what's wrong with this whole process
5 is that the legislation was obviously determined on
6 the basis of financial convenience to the District of
7 Columbia as viewed by the Council which passed the
8 legislation.

9 Because the principal issue was the
10 \$21,000 of rental fee paid and the \$30,000 of tax
11 benefits derived from the use. And on that basis and
12 on that basis alone the Council determined that it is
13 a good reason to zone, to take over the process of
14 zoning from themselves for this particular piece of
15 property.

16 While the Zoning Ordinance itself in
17 Section 106.5 does state a specific limitation, or
18 implies a specific limitation to the use of such
19 property when owned by the District of Columbia
20 Government for a public building or public use.

21 And the particular use is an overlay on
22 to the public use of a private use through the
23 sublease. Under those circumstances it is not clear,
24 or it certainly isn't defined as being an appropriate
25 un-zoned use based on what the ordinance says

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1 specifically.

2 So my problem is that we're looking at
3 something that the Council decided to take out of our
4 hands strictly for financial gain, to the District of
5 Columbia, rather than for some more, um, what I
6 believe is a more valid reason.

7 CHAIRPERSON REID: Mr. Sockwell you cannot
8 say, we don't know the rationale for --

9 VICE CHAIR SOCKWELL: It's written into
10 the legislation, that's why.

11 CHAIRPERSON REID: -- why they chose to
12 take the position that they took.

13 VICE CHAIR SOCKWELL: Well.

14 CHAIRPERSON REID: Nonetheless, I think
15 that what we have is a situation wherein this
16 temporary status of legislation does not allow us to
17 be able to do, to act on this, as it is before us.
18 As far as the application that is before us, because
19 we don't know what the outcome is going to be after
20 this time has passed, this 240 days. 260 days.

21 So the only thing that we can do under
22 these circumstances I suppose is to grant the
23 continuance until that time. And in the meantime
24 these other things that we're asking about, we can,
25 it be clarified for us.

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1 Nonetheless, what Mr. Sockwell pointed
2 out was a very good point. As far as the regulations
3 are concerned in regard to property owned by the
4 District Government for a public use, being un-zoned.

5
6 But, and that, and the problem I had with
7 that was the fact that it was not for public use, but
8 then he mentioned something about an overlay that
9 allowed the public use to be used for private use --

10 VICE CHAIR SOCKWELL: No, you
11 misunderstood me. What I'm saying is that the
12 private use has been overlaid over the public use.
13 In other words --

14 CHAIRPERSON REID: By whom?

15 VICE CHAIR SOCKWELL: By the School Board,
16 the School System having subleased the property which
17 is normally used for a public use, to a temporary one
18 day a week private use.

19 CHAIRPERSON REID: But it is private. I
20 mean, that's what I'm asking, overlay --

21 VICE CHAIR SOCKWELL: What I'm saying is
22 the private use may take it back into the zoning
23 category, because the specifics of the Ordinance are
24 that for a public use it's un-zoned, not for a
25 private use.

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1 CHAIRPERSON REID: That was the question.
2 That was the question that I had a problem with and
3 I raised. It was brought out in the hearing that this
4 was not public use, this in fact was a private use.
5 I don't understand about an overlay, because I don't
6 --

7 VICE CHAIR SOCKWELL: The word, I used the
8 term overlay because I just meant that --

9 CHAIRPERSON REID: Okay.

10 VICE CHAIR SOCKWELL: -- the primary
11 underlying use is --

12 CHAIRPERSON REID: So it was not a legal -
13 -

14 VICE CHAIR SOCKWELL: No, not a legal
15 overlay. I just used it as a term, rather than as a
16 --

17 CHAIRPERSON REID: So, that was my
18 objection to the matter and it was pointed out to us
19 by Counsel, by Corporation Counsel, that under
20 certain circumstances the City Council does have the
21 right to deem certain sites, site specific properties
22 to have them to be un-zoned to determine that they're
23 un-zoned.

24 And I don't agree with that. I have a
25 problem with that because if that's the case why even

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1 have the zoning regulation in the first place? But,
2 and that's not my call.

3 So. Given that, the only thing that we
4 can do is postpone until such time that this
5 temporary, quote, unquote temporary legislation has,
6 get the outcome of that, and then we will have a
7 better guide as to what, what we should do.

8 MEMBER RENSHAW: Madam Chair?

9 CHAIRPERSON REID: Well, I'm uncomfortable
10 with this whole situation quite frankly. Yes.

11 MEMBER RENSHAW: Madam Chair I'm not quite
12 sure when the, are we checking off the 90 days from
13 the approval date of this legislation, January 10th,
14 2000, and then does the temporary legislation of 225
15 days follow that period of time.

16 And the Applicant, let's see, has asked
17 for a postponement until June 5th, meanwhile the Flea
18 Market is going to be up and running, I expect with
19 the first good day in Spring, I am assuming that it
20 starts almost immediately when the weather clears.

21 And I would like to move on this as soon
22 as possible. Mr. Hood has expressed that opinion, I
23 feel the same way. So that this doesn't hang out in
24 limbo until June then through the summer and into the
25 fall probably.

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1 So I would like to push on it. I think
2 we owe it to all parties to get this resolved.

3 CHAIRPERSON REID: Okay, let's take your
4 comments, your questions, in the order in which you
5 gave them. The first issue was the running of the
6 time. Ms., that would be best answered by Corp.
7 Counsel, cause I'm not exactly sure legally how it's
8 counted when it starts and when it ends.

9 MS. SANSONE: Madam Chair, I believe the
10 90 day period begins to run upon approval by the
11 financial Responsibility and Management Assistance
12 Authority, which would have occurred seven or 14 days
13 after January 10th.

14 And I'm not, again, I'm not sure if it's
15 the seven or 14 day review period, but shortly after
16 January 10th, this would have become effective, for
17 90 days.

18 CHAIRPERSON REID: And that was, what date
19 would that run to?

20 MS. PRUITT: April 24th at the very
21 latest.

22 CHAIRPERSON REID: Okay, and then, the 240
23 days starts --

24 MS. PRUITT: 240, I thought it was 260?

25 CHAIRPERSON REID: 260. I keep saying

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1 240, 260 days starts when?

2 MS. SANSONE: Madam Chair, the 200, it's
3 225 days. It would start, if there had been a, a
4 bill introduced in the Council and approved for a
5 temporary act, and that is what I don't, I did not
6 find a bill for a temporary act, I don't believe
7 there is any temporary legislation as yet.

8 And that was a question that really
9 needed to be clarified. I did not find one, and so
10 if there isn't one, we can forget about the 225 days.

11 So I don't believe we have any temporary legislation
12 before us.

13 But I mean I could be wrong about that,
14 but I did not find any.

15 CHAIRPERSON REID: Okay, where do we get
16 that from? Who introduced that temporary legislation
17 aspect of this?

18 MEMBER RENSHAW: Um.

19 CHAIRPERSON REID: Where did you get that
20 Ms. Pruitt? Where does that stem from, the temporary
21 aspect, temporary legislation --

22 MS. PRUITT: The request for it, or where
23 the information that we ?

24 CHAIRPERSON REID: The information
25 regarding that?

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1 MS. PRUITT: I honestly don't know, cause
2 we are, remember you also had, we've already dealt
3 with this issue on June 9, January 19th, in reference
4 to the appeal, which has been continued to June 5th.

5 And that's when we first got the
6 information as to temporary, I mean about the
7 legislation being available, being there and the
8 Board had already continued that.

9 So this is the application. Basically
10 what they've done is they're going to appeal the
11 Zoning, somebody is appealing the Zoning
12 Administrators determination.

13 If that appeal is, if the Zoning
14 Administration's determination is overturned then
15 they have already put in an application so that they
16 could become legal.

17 I mean that happens frequently when you
18 have an appeal, and so then that's a special
19 exception just to cover their bases. And that is
20 exactly what has happened here.

21 So you've already continued the appeal to
22 January, I mean, excuse me, to June 7th. And this
23 was just the application that was being requested for
24 the same consideration.

25 And at that time we believed, we knew it

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1 was emergency legislation which would have taken us
2 to April 24th. We initially thought maybe May, but
3 we thought because of any type of slippage, if we
4 make it the first meeting in June then that would be
5 the, really first reasonable available date after
6 emergency legislation would have run out.

7 COMMISSIONER HOOD: This is going to be a
8 temporary use once it's approved, right?

9 MS. PRUITT: No, actually it would be a
10 year, I mean it would be a permanent use, --

11 COMMISSIONER HOOD: A permanent, year
12 round --

13 MS. PRUITT: -- seasonally, I believe.

14 COMMISSIONER HOOD: -- flea market. Okay.
15 Sort of almost acting like a retail use then in the
16 sense --

17 MS. PRUITT: Correct. But I think it's a
18 seasonal thing.

19 COMMISSIONER HOOD: Yeah. Okay. I'm just
20 concerned at the amount of energy that we're spending
21 on this for such a use, and I think we need to. I
22 wasn't involved in this, I'm new, but I'm just
23 concerned about the amount of energy we're spending
24 on this.

25 And can we reach some kind of decision to

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1 move forward? I mean we have the Council involved
2 and the legislation has been in process --

3 MS. PRUITT: The Applicant is requesting
4 that the Board hold off on anything until June 7th so
5 that basically the dust can settle with all the
6 things that are kind of floating out there.

7 COMMISSIONER HOOD: Okay, yeah. But I
8 will, I would like to put on the record that we do
9 have some concerns, and why this time we don't want
10 to ruffle any feathers, especially during the
11 budgetary time, but we do have some concerns about
12 whether or not the zoning can be legislated by the
13 Council.

14 And that's been a concern of mine since
15 I've been here. So with that and with everything in
16 front of us, Madam Chair, I would just, if it's an
17 Order, and all discussion, I would just make a motion
18 that we postpone to --

19 MS. PRUITT: June. I will, excuse me, I
20 would like to at least. I forgot, and this was
21 brought to my attention. On this particular case --

22 COMMISSIONER HOOD: Well let me just take
23 the motion back off the table because I was making a
24 motion and I think, let me just take that back off
25 the table until we finish discussion.

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1 MS. PRUITT: In this particular
2 application there was one person in opposition. And
3 so I just will let you know that. I mean, but you've
4 already continued the other case to June 5th, June
5 7th, excuse me, I don't know why I said 5th.

6 COMMISSIONER HOOD: But what is the ANC's?
7 --

8 MS. PRUITT: ANC supports it.

9 CHAIRPERSON REID: They supported it.

10 COMMISSIONER HOOD: All right.

11 CHAIRPERSON REID: In regard to the appeal
12 and to the application, if we just go ahead and pose,
13 continue that the application until June, June what
14 was it? June the 5th, go ahead and.

15 MS. PRUITT: June the 7th.

16 CHAIRPERSON REID: June the 7th. Go ahead
17 and do that, and if in fact in the interim this
18 legislation is, becomes law, then it becomes a moot
19 point. Let's do that. I would so move.

20 MEMBER RENSHAW: However, I just want
21 clarification here. If the emergency legislation
22 lapses on April the 24th, and if there is no
23 temporary legislation, and if we are not hearing the
24 case until June the 7th, therefore, there is a void
25 that has to be filled.

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1 Hence I go back to my other comment that
2 we need to move forward with this.

3 CHAIRPERSON REID: What do you mean Ms.
4 Renshaw?

5 MEMBER RENSHAW: In other words, I would,
6 I would take it up within the April hearing schedule,
7 and rule on it. And if we find that we have
8 temporary legislation that's going to take it beyond
9 April the 24th then we can decide as a Board whether
10 or not we want to wait until the end of the temporary
11 legislation.

12 But right now we don't know that there's
13 any temporary legislation in effect. All we know is
14 that we've got 90 days, 90 days and, on the 24th. So
15 why don't we move ahead for all parties, I think
16 they'd like to have a decision made by us.

17 And I think that we should speak out and
18 decide how to rule on this, period.

19 CHAIRPERSON REID: Well the party is, I
20 mean, that, the major party is asking for the
21 postponement until June the 7th. That's coming from
22 the Applicant. And the ANC doesn't have, has not in
23 any way indicated to us that they had any sense of
24 urgency to afford to be heard earlier than that.

25 MEMBER RENSHAW: How is the Flea Market

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1 operating in that period of time, if and when the
2 emergency legislation lapses, and until the time that
3 we hear the case in June, under what is the Flea
4 Market operating, on what basis? Well just, well,
5 Court Counsel could --

6 CHAIRPERSON REID: Direct that for the
7 Counsel, I don't know.

8 MEMBER RENSHAW: Uh-huh.

9 MS. SANSONE: Madam Chair, I'm afraid I
10 don't know the answer to that either. The
11 application, if it is ruled upon favorably would be
12 what would allow the Flea Market to proceed legally.

13 So I believe Ms. Renshaw is making a valid point
14 here that depending on what their operating season
15 is, if it begins earlier, they would need the special
16 exception to proceed, or else they would need a
17 favorable ruling on the appeal to enable them to get
18 the permit that they were seeking.

19 CHAIRPERSON REID: You mean as of, as,
20 they would, we'll know that as of April, so Ms.
21 Renshaw are you saying that you'd like to move the
22 decision date up closer to the expiration of the 90
23 day period of April 24th?

24 MEMBER RENSHAW: Definitely.

25 CHAIRPERSON REID: Okay. I have no

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1 problem with that. I mean, again, the application,
2 the Applicant had requested. The request was for
3 June 7th. Now I don't know what the rationale was
4 for them to do that, given the fact that it could be
5 decided upon earlier, if the 90 day period expires
6 April 24th.

7 MS. PRUITT: So, just so I'm
8 understanding, you're requesting that this be put on
9 the agenda for the May meeting, and you will
10 determine whether or not you will hear it or do you
11 want to actually have the case available to be heard?

12 MEMBER RENSHAW: I think the case should
13 be heard in April, because the legislation lapse is
14 at the end of April.

15 MS. PRUITT: Right, I'm looking at the
16 April schedule. That's the last week in April, and
17 I'm trying to look to actually see what we have
18 scheduled.

19 (Pause.)

20 Oh, we have GW, University Master Plan.

21 CHAIRPERSON REID: Okay, that's April,
22 what about May?

23 MS. PRUITT: Then that would be the first
24 meeting in May, that's what I was suggesting.

25 CHAIRPERSON REID: Do we have, is the

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1 calendar um, --

2 MS. PRUITT: Full?

3 CHAIRPERSON REID: Yeah, I mean --

4 MS. PRUITT: It's full, but I mean you
5 could add this. I wouldn't, I would not suggest
6 adding this to GW.

7 CHAIRPERSON REID: No. Okay. So the
8 first available date after the legislation and after
9 the 90 day period is May what?

10 MS. PRUITT: May 3rd.

11 CHAIRPERSON REID: May 3rd.

12 MS. PRUITT: We will add it to an existing
13 agenda.

14 MR. HART: Okay --

15 MS. PRUITT: In the afternoon. We could
16 add it to the afternoon agenda on May 3rd.

17 CHAIRPERSON REID: Okay, now, wait a
18 minute, wait a minute. The appeal is already
19 scheduled for when?

20 MS. PRUITT: January, June 7th.

21 CHAIRPERSON REID: All right, then why
22 wouldn't we do it on the same day? I mean, Ms.
23 Renshaw, I don't, wait, wait, wait. Let's go --

24 There is, unless there is some, some
25 overriding urgency, this, the Applicant has requested

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1 that both of these, they're on the, we've already
2 voted that the appeal is going to be heard on June
3 7th.

4 So what we would do is if we have the
5 application also on the same date, then we would have
6 it, we would have the opportunity to determine which
7 one we were going to be, actually, we would know by
8 that time which one.

9 Would it be the appeal or would it go for
10 the actual application?

11 MEMBER RENSHAW: But then it goes back to
12 under what is the Flea Market operating from the end
13 of April until June the 7th?

14 CHAIRPERSON REID: Well I think, Ms., tell
15 me your last name, Ms. Corp. --

16 MS. SANSONE: Sansone.

17 CHAIRPERSON REID: Sansone. Just one
18 second. Ms. Sansone, let me ask you a question
19 regarding the status of an application or a status of
20 a business pending a hearing by the Board of Zoning
21 Adjustment. Is, does it not, is it not allowed to
22 operate in the interim?

23 MS. SANSONE: Madam Chair if you'll allow
24 me a minute to look at the regulations. I'm not sure
25 off hand. Apparently the Applicant was seeking a

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1 certificate of occupancy and that was what was
2 denied, which led to the appeal.

3 CHAIRPERSON REID: Uh-huh, uh-huh. Cause
4 I think, if I'm not mistaken, Ms. Pruitt, maybe,
5 you've been here for some time. In situations like
6 that where you have a business that is in a holding
7 pattern, pending the outcome of, a decision by the
8 BZA, my understanding is, if I'm not mistaken, my
9 understanding is that they are, they are allowed to
10 continue conducting their business until such time
11 that they actually have the hearing.

12 MS. PRUITT: I believe, and this is my off
13 the cuff, I would really have to research this, but
14 it does usually stay the process.

15 CHAIRPERSON REID: Uh-huh. That's what I
16 thought.

17 MEMBER RENSHAW: But we're not sure.

18 MS. PRUITT: Correct. I can verify that.

19 VICE CHAIR SOCKWELL: In the case,
20 however, in the case of a seasonal use, does their
21 certificate of occupancy expire at the end of a given
22 date?

23 CHAIRPERSON REID: I don't think they have
24 one, do they?

25 VICE CHAIR SOCKWELL: They don't have one

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1 at all.

2 CHAIRPERSON REID: Uh-uh.

3 MS. PRUITT: That's what they applied for.

4 VICE CHAIR SOCKWELL: Okay, so they didn't
5 have one at all.

6 CHAIRPERSON REID: That's what triggered
7 this whole, well, see I think they have been
8 operating --

9 VICE CHAIR SOCKWELL: Strictly on a --

10 CHAIRPERSON REID: -- for some time
11 without one.

12 VICE CHAIR SOCKWELL: Strictly on a lease
13 basis.

14 CHAIRPERSON REID: Uh-huh.

15 COMMISSIONER HOOD: And Madam Chair,
16 that's my comment, not just the Flea Market. There
17 are places all over this City that operate without
18 anything, and they continue to do that. And again, I
19 have to concur with I think Ms. Pruitt Williams'
20 statement that once there's an appeal and all these
21 things are on the table, then they're able to operate
22 pending a final decision.

23 So it's, I think it's in our best
24 interest to go ahead and settle this and move
25 forward. However we do it. I was not exactly in the

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1 same mind frame as Ms. Renshaw, but however we can
2 take care of this, I think we need to move.

3 I was in favor of the postponement, but I
4 go back to step one where I have some concerns about
5 this, the City Council legislating the zoning. And I
6 don't know when the time is to bring that up, but I
7 know the time is not now.

8 CHAIRPERSON REID: Okay, all right. Why
9 don't we do this. I think we're in agreement. I
10 think that it should be postponed. Now it's a matter
11 of when as to what time, and also, who, the
12 determination about the status of the business, the
13 Flea Market, in the interim.

14 Ms. Sansone, wouldn't that just take a
15 telephone call, find that out for us, please?

16 MS. SANSONE: Yes, Madam Chair, we'll do
17 that.

18 CHAIRPERSON REID: Yeah, I mean if it's
19 only a telephone call we don't have to wait about
20 that. And anyway, I think that the appeal and the
21 special exception, that the appearance and such
22 exception be heard on the same day.

23 And we've already got the appeal
24 scheduled for June the 7th. It's a variance? That's
25 what I'm asking. Is it a variance or a special

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1 exception? It's a variance, okay. You, -- okay.

2 I would, I think it would advisable to
3 have it on the same day. And we already have the
4 appeal on the 7th, so I would, it would be my feeling
5 that we should also do the other one on the 7th as
6 well, of June.

7 MEMBER RENSHAW: My feeling is that we
8 should accelerate this case and move it up.

9 CHAIRPERSON REID: Why?

10 MEMBER RENSHAW: Because I feel that we
11 are getting into limbo again with --

12 CHAIRPERSON REID: Why?

13 MEMBER RENSHAW: Why? Because the
14 emergency legislation lapses on the 26th.

15 CHAIRPERSON REID: But what's the danger,
16 what's the --

17 MEMBER RENSHAW: We don't know. We don't
18 know how they are operating, and I just feel on, I
19 just --

20 CHAIRPERSON REID: We will find out.

21 MEMBER RENSHAW: Right. We're going to
22 find out, is right. But I feel that this has dragged
23 on long enough and I would like to accelerate it and
24 bring it to closure.

25 CHAIRPERSON REID: We haven't drug on Ms.

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1 Renshaw, I beg to differ.

2 MEMBER RENSHAW: All right.

3 CHAIRPERSON REID: It has not drug on,
4 this is the second, this is the proper time for it to
5 have come before us, after we've had our meeting, and
6 this is the time to make a decision and the decision
7 is, is predicated upon what's before us which is a
8 request for June the 7th where the appeal is already
9 set for June the 7th.

10 To have it on two different days, puts a
11 burden not only on this office but also on the
12 Applicant because they have to deal with, possibly
13 have to prepare for two different days to be able to
14 appear here.

15 And, if there was some overriding reason
16 why there is some urgency, that would be different.
17 But I don't, only, only concern of urgency that I see
18 is basically coming from you. And I don't understand
19 why.

20 MEMBER RENSHAW: All right, well I will
21 just not belabor this but I will let my objection
22 stand and urge that this be done at the earliest
23 possible date.

24 CHAIRPERSON REID: If the Flea Market is
25 allowed to operate in the interim, then I can't see

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1 where there's a problem.

2 MEMBER RENSHAW: I think that the Flea
3 Market would like to have some resolution of this
4 problem and be able to proceed under whatever we have
5 agreed is to be the proper arrangement.

6 But to drag it on into the Flea Market's
7 season, is just to elongate the process. I would
8 just like to shorten it and come to closure.

9 VICE CHAIR SOCKWELL: If I might make this
10 statement Madam Chair. The one issue about a flea
11 market is that the persons who use it have to leases
12 the spaces from Mr. Sussman and therefore would be
13 more up in the air as to the duration of their
14 leases, the situation of the time that they'd be
15 there, et cetera, et cetera.

16 So there is some justification for
17 closing some of the issues off to narrow the focus of
18 the, of the case. And that is the only thing that I
19 would suggest be considered.

20 CHAIRPERSON REID: Mr. Sussman is the
21 Applicant?

22 VICE CHAIR SOCKWELL: Yeah, he's the
23 Applicant.

24 CHAIRPERSON REID: He's the one who
25 requested June the 7th, not us. We didn't, we did

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1 not impose that.

2 VICE CHAIR SOCKWELL: Right.

3 CHAIRPERSON REID: I mean, I don't
4 understand. I don't understand --

5 VICE CHAIR SOCKWELL: Mr. Sussman may be
6 the Applicant, but there are a large number of spaces
7 that are leased there, and Mr. Sussman, while he may
8 hold the lease to the property and control over that
9 and it's a very sought after location, those spaces
10 are all booked up.

11 There are other people to be considered.

12 CHAIRPERSON REID: But why didn't he, I
13 don't understand, why didn't he ask for an earlier
14 date?

15 VICE CHAIR SOCKWELL: Maybe it wasn't
16 important to him.

17 CHAIRPERSON REID: All right, well, again,
18 the Applicant is the one who I think has the
19 responsibility of proffering to us what they would
20 like. And they asked for June the 7th. And I think
21 that they know their business and their attorneys are
22 much, much more apprised of the situation than we
23 are.

24 I can't, I don't, I have a very difficult
25 time with speculation and conjecture, and to reading

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1 into things what we don't have before us.

2 MEMBER RENSHAW: But I think that the
3 Board can move forward with an earlier date and just
4 inform the attorney for the Applicant that the Board
5 wishes to adjudicate this matter at the first meeting
6 in May.

7 CHAIRPERSON REID: Adjudicate, you mean,
8 the, have the hearing?

9 MEMBER RENSHAW: Yes.

10 CHAIRPERSON REID: Wait a minute. Don't
11 you have to have the appeal before you have the
12 hearing? Well, if --

13 MS. PRUITT: You don't have to, it
14 certainly makes sense, but. And that's why in fact
15 they were um, submitted that way. The appeal --

16 CHAIRPERSON REID: On the same day.

17 MS. PRUITT: No, well, either on the same
18 day, but the appeal was submitted prior to --

19 CHAIRPERSON REID: No, I'm saying, to be
20 heard on the same day. You have the appeal, and if
21 the appeal doesn't, if they lose the appeal then you
22 go to the hearing.

23 MS. PRUITT: Correct. Which is also why
24 we usually schedule them either the same day or the
25 appeal prior to an application.

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1 CHAIRPERSON REID: Okay. All right. I
2 think that that would be the proper way to proceed.
3 I think that, like, this is a very complicated
4 situation. And we're kind of feeling our way, but I
5 don't want to get bogged down with all these
6 legalities and these, all of the various complexities
7 that are, this cause is brought with, such that we
8 are not conducting ourselves in a proper manner.

9 And at all times we must look at what is
10 before us. We can not conjecture or speculate or to
11 put anything into it that's more than what we have in
12 black and white or what is in extent what has come
13 out in the hearing.

14 It doesn't make sense to have a hearing
15 before you have the appeal. The Applicant has so,
16 has so requested and that's what's before us. That's
17 what, I think that we should be voting on, in the
18 interim we'll find out about the operation of the
19 business for the duration.

20 And I'm almost certain that, has a phone
21 call been made yet? Yeah. To clarify that matter,
22 but the Corporation Counsel did say to us in our
23 meeting that in certain instances there have been,
24 that there have been circumstances under which the
25 City Council has made rulings in regard to zoning.

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1 Although it is not the City Council's
2 charge to legislate zoning. We know that, this is
3 why you have a Zoning Commission. But this seemed to
4 be one of those irregular situations that may lend
5 itself to such a, such an abnormal ruling by the City
6 Council.

7 We don't know what that's going to be,
8 but we can be prepared for the hearing and the, for
9 both the appeal and the variance in the event for
10 some reason it doesn't fly.

11 And that's, and I think that's where we
12 are. I think. So, my motion would be, to postpone
13 this until June the 7th, to be heard on the same day,
14 of the appeal, with the appeal being heard first on
15 that day. Is there any second?

16 COMMISSIONER HOOD: I have some
17 unreadiness.

18 CHAIRPERSON REID: Okay.

19 COMMISSIONER HOOD: Cause I'm sitting here
20 thinking as we, since we've been on the subject now
21 for 45 minutes, other things have come into my mind.

22 I'm just curious, and I go back to, well
23 anyway, I'm just curious that if, if this
24 legislation, wherever it is out there -- is passed,
25 permanently, then were does that leave our ruling?

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1 And I guess Corp. Counsel is out of the
2 room, but I'm just curious. It seems like it's a
3 fight here between, it seems like it's going to be a
4 fight between us and the Council, and well, not
5 necessarily the Council.

6 It just seems like decisions are coming
7 our sporadically and it's like everything's in a
8 disarray, and actually that's not fair, I don't
9 think, to folks who live over there in that
10 neighborhood, as well as to us.

11 So, I really am, now, I'm kind of want to
12 agree with Ms. Renshaw, but if we do have the hearing
13 earlier, what difference does it make if, which one
14 supercedes which? I guess that's where I am.

15 VICE CHAIR SOCKWELL: If I might put my
16 two cents worth on that. If we step aside and wait
17 for the Council to act we don't give any indication,
18 well we do give an indication of our position on the
19 matter, that we step aside for the Council to make
20 its decision.

21 And then we determine from the Council's
22 decision what should be done, as opposed to doing
23 what we would normally do, absent legislation, that
24 we think first of all is unfair to the ordinance and
25 second, puts the decision making out of the hands of

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1 the Body that should be handling such cases.

2 If we don't take a stand prior to say a
3 temporary legislation being passed, then there's no
4 indication to the Council at all that the Board of
5 Zoning Adjustment feels that it has jurisdiction.

6 CHAIRPERSON REID: Well, if in fact we
7 took that posture, then we could go ahead and rule
8 for or against what's before us, and then if in fact
9 the City Council's legislation passed, then they
10 certainly would have the power to reverse it. So
11 what's the point.

12 COMMISSIONER HOOD: And that's, that's my
13 problem, unfortunately. That is definitely my
14 problem.

15 CHAIRPERSON REID: So before we, well what
16 I'm saying is if we're going to err, let's err on the
17 side of caution, because if we don't know what
18 they're going to do. We know that there has been
19 some temporary, I mean some emergency legislation
20 that's been passed by the Control Board.

21 So let us now remember now, we're not
22 just dealing with the City Council, we're dealing
23 with the Control Board as well. And my understanding
24 is that this temporary legislation. Now, correct me
25 if I'm wrong, Corp. Counsel --

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1 MS. PRUITT: She's out of the room right
2 now, but --

3 CHAIRPERSON REID: Oh, okay, well, when
4 she comes back then we'll find out. But, that this,
5 this legislation, this temporary legislation, if
6 approved by the Control Board is not subject to
7 congressional review.

8 I just read that somewhere.

9 COMMISSIONER HOOD: But I think that the,
10 I don't know how much time frame the Control Board
11 does with the -- charter, but I know that the
12 Commission is up and I believe BZA too, up under the
13 -- charter.

14 See, we're bringing in a whole lot of
15 other things now, and that's, my --

16 MS. PRUITT: The Zoning Commission is --

17 CHAIRPERSON REID: Well what I'm saying
18 is, the point I'm making is why don't we see what
19 they're going, give them, we'll postpone this, see if
20 they do that, you know, and if they do, if they, if
21 they invoke the legislation, then that would take a,
22 that would immediately usurp the powers of the Zoning
23 Commission.

24 All right, now, then comes the issue as
25 to whether or not they can or cannot do that, and the

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1 Corporation Counsel, and I don't know, he may or may
2 not be correct, that they can.

3 And that in some regards he has said that
4 they, there have been case law where this happened
5 before and in certain instances it can be done.

6 COMMISSIONER HOOD: I have to also agree
7 with Ms. Renshaw, though, we do need to send a strong
8 message that we're not going to wait on any Council
9 or anybody, that is in our jurisdictions, our
10 purview. Just act on --

11 CHAIRPERSON REID: That's not what she's
12 saying --

13 COMMISSIONER HOOD: Hold on, let me
14 finish. Let me finish. That is in our purview. But
15 since we have already made a decision on the appeal
16 of June the 7th, I would be inclined to go ahead and
17 have a hearing for June the 7th.

18 But there are some other issues we can
19 talk about for another hour.

20 CHAIRPERSON REID: Yeah, there are other
21 issues but --

22 COMMISSIONER HOOD: But I think we need to
23 move forward and stay consistent.

24 CHAIRPERSON REID: But what she said, but
25 what she said if I understood it correctly was not,

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1 not so much waiting on City Council, she was like,
2 she was still saying after the City Council's ruling,
3 but closer to that date than later.

4 MEMBER RENSHAW: No.

5 COMMISSIONER HOOD: Ms. Renshaw, could you
6 clarify that?

7 MEMBER RENSHAW: Yes. What I said was
8 that since the emergency legislation is lapsing at
9 the end of June and we do not know the status --

10 CHAIRPERSON REID: Of April.

11 MEMBER RENSHAW: Of April, sorry, and we
12 do not know the status of this temporary legislation,
13 that it is best to move it up and put it on the
14 schedule for May the 3rd, which we've determined we
15 have time for --

16 CHAIRPERSON REID: That's after the
17 legislation.

18 MEMBER RENSHAW: But it is the first
19 available date after the legislation lapses.

20 CHAIRPERSON REID: Yes.

21 MEMBER RENSHAW: And I would move to
22 inform all parties hearing and appeal that the case
23 would be heard on the same day and that the Board has
24 decided to move this issue to May the 3rd.

25 CHAIRPERSON REID: Okay, um.

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1 MEMBER RENSHAW: That's what I'm moving.

2 CHAIRPERSON REID: --

3 MS. SANSONE: Yes, Madam Chair, I was able
4 to speak with the Edgar Nunley and the Zoning
5 Administrator's Office. He, and I was not able to
6 reach anyone else in the Corporation Counsel's
7 office, but Mr. Nunley stated that if the Applicant
8 does not have a certificate of occupancy, he will not
9 be able to operate the Flea Market this summer.

10 So the Applicant either needs to proceed
11 to get favorable action on the appeal, and, and
12 obtain a certificate or he needs to obtain a variance
13 prior to operating this summer.

14 Otherwise it would be an illegal use.

15 CHAIRPERSON REID: Okay, you said this
16 summer. I'm not --

17 MS. SANSONE: I'm not sure what the
18 Applicant's operating season is, when they start, but
19 they, the Applicant needs the certificate of
20 occupancy to operate the Flea Market.

21 CHAIRPERSON REID: So are you saying that
22 he would not, oh, I see, well in the first place.
23 Excuse me, in the first place, in this instance, he's
24 not operating now. So you're saying that for him to
25 be able to start this operation he would have to

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1 have, is that what you're saying?

2 MS. SANSONE: Madam Chair?

3 MEMBER RENSHAW: --

4 MS. SANSONE: I don't know what his
5 schedule is, but in order to operate the Flea Market
6 he needs either the certificate of occupancy, which he
7 does not currently have, or the variance, at, which
8 would lead to a certificate of occupancy, or he would
9 need to have the legislation be in effect.

10 Right now he has the emergency
11 legislation, which will carry him through to April.
12 If there is no temporary legislation, that would take
13 him beyond that point, then he would be operating
14 illegally.

15 So he needs relief, in order to continue
16 operation, he needs relief in one of those three
17 manners. But, the fact that there are proceedings
18 before the Board or an application before the Board
19 would not enable him to operate legally.

20 CHAIRPERSON REID: All right, go ahead.

21 MEMBER RENSHAW: And Madam Chair, he's
22 operating now, the weather permits.

23 CHAIRPERSON REID: Oh, he is?

24 MEMBER RENSHAW: Yes.

25 CHAIRPERSON REID: So --

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1 MS. PRUITT: But they're under emergency
2 legislation at this point, so they're operating
3 legally.

4 CHAIRPERSON REID: Yeah. So you're saying
5 --

6 MEMBER RENSHAW: Operating legally, but it
7 comes to an end at the end of April.

8 CHAIRPERSON REID: I understand. Yeah, I
9 understand. And, so you're saying that an existing
10 business cannot continue to operate pending the
11 outcome of the decision of the Board of Zoning
12 Adjustment. Is that what I'm hearing you say?

13 MS. SANSONE: Madam Chair that was the,
14 that's correct. That was the recommendation from the
15 Zoning Administrator and it, as far as I'm able to
16 determine.

17 CHAIRPERSON REID: I don't think that's
18 correct. And I'm going to further check that because
19 I don't think that the City, if a business in, fully
20 operating business determines that, it's determined
21 that they need a certificate of occupancy, that there
22 business has to close down until they can get to the
23 BZA.

24 I don't think that's true in our rules.
25 We can check that, you know, for the record to

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1 clarify that. But, now, but, given what you just
2 said, I think that what, I hearing Ms. Renshaw say is
3 to move it out to May both, the appeal and the
4 hearing as long as it's on the same day.

5 The appeal and the hearing. I don't have
6 a problem with that. Now, but can we, Ms. Pruitt,
7 after having, having voted to continue the appeal to
8 June 7th, can we now change that to another date?

9 MS. PRUITT: We would re, we would have to
10 re-advertise because while the parties may know --

11 CHAIRPERSON REID: We have time, I mean we
12 have time to do that. I mean would there be any
13 objection --

14 MS. PRUITT: Then we can do so.

15 CHAIRPERSON REID: -- by the Applicant?

16 MS. PRUITT: Well I'll have to find out
17 from them.

18 CHAIRPERSON REID: Well can't you just
19 turn around and ask them?

20 MS. PRUITT: Well this is a meeting of --

21 CHAIRPERSON REID: I know that.

22 MS. PRUITT: Normally we don't do that --

23 CHAIRPERSON REID: I know that.

24 MS. PRUITT: -- but if that's your
25 choice.

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1 CHAIRPERSON REID: That's my choice today
2 because of the abnormality, this is an anomaly.

3 MS. PRUITT: Whatever you want, whatever
4 you'd like.

5 CHAIRPERSON REID: Okay, good.

6 VICE CHAIR SOCKWELL: Madam Chair?

7 COMMISSIONER HOOD: -- should include
8 opposition if we're going to do that I really think
9 we need to be fair.

10 CHAIRPERSON REID: The opposition is here.
11 The opposition is present today.

12 VICE CHAIR SOCKWELL: Madam Chair?

13 CHAIRPERSON REID: I mean, and, when I,
14 excuse me, when I said, to check to see if that was
15 okay with the Applicant, that was not, I mean I'm not
16 --

17 COMMISSIONER HOOD: You don't have to
18 explain, Madam Chair, I just want to make sure we're
19 covering both sides.

20 CHAIRPERSON REID: Sure, sure, and I
21 appreciate that. I appreciate that. That's the
22 main, you know. I appreciate that, uh-huh. Can we,
23 can we vote now? Do you have more comments?

24 VICE CHAIR SOCKWELL: The only thing I was
25 going to say was that per a phone call I just made,

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1 apparently the Flea Market operates year round, with
2 the exception of January and February.

3 CHAIRPERSON REID: Okay. Okay. All
4 right. So then, you, Ms. Renshaw, make your motion.

5 MEMBER RENSHAW: I move that the Board set
6 the hearing and appeal for May the 3rd, and that the
7 Board informs all parties that the cases will be
8 heard on the same day.

9 COMMISSIONER HOOD: I'll second that
10 motion.

11 CHAIRPERSON REID: Okay, all in favor?

12 (Chorus of ayes.)

13 Opposed?

14 (Pause.)

15 MS. PRUITT: Excuse me, staff would record
16 the vote as five to zero to continue this case to May
17 the 3rd, along with the appeal. The motion made by
18 Mrs. Renshaw, seconded by Mr. Hood.

19 CHAIRPERSON REID: Okay.

20 (Pause.)

21 MS. PRUITT: The last item on your agenda
22 is, excuse me, application 16144 Parkside Phase II.
23 This case was originally heard on June 5, 1996 and
24 approved at the public hearing meeting on June 10th,
25 1996. Our fees were never paid, and the order was

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1 never issued.

2 There was an understanding because this
3 was a, they weren't able to pay the fee right away
4 that they would then pay it after the decision.

5 Here we are four years later, and we've
6 had several letters to them, June 13th, '96, May
7 21st, 1998, August '98, November 1998. And each time
8 they've requested additional time to try to raise the
9 funds.

10 We're into the fourth year of them trying
11 to raise these funds and the order's never been
12 issued. We would, staff is recommending that maybe
13 you give them a time certain for them to, instead of
14 just deferring it on end and end.

15 A time certain to either come up with the
16 fees or dismiss the, so we can close out the case,
17 because right now it's just hanging open. And we
18 have, we can't get any straight or hard evidence as
19 to when they may be coming, when they would even be
20 able to pay the fee if ever.

21 CHAIRPERSON REID: If we dismissed it,
22 they would have to just start over again, when they
23 got ready to and --

24 MS. PRUITT: Yeah.

25 CHAIRPERSON REID: They're not losing

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1 anything, except for their position in the queue,
2 huh?

3 MS. PRUITT: Right, and I mean, and in
4 fact, that we're putting in an awful lot of staff
5 time for a fee that never got paid.

6 CHAIRPERSON REID: What are you doing?

7 MS. PRUITT: I mean we're dealing with
8 this now. You had a whole hearing, you had a
9 decision and a fee was never paid. The fee should be
10 paid up front. As to why it was deferred I'm not
11 sure.

12 CHAIRPERSON REID: They, well they didn't
13 have the money. So that's, that's why. And they
14 haven't had the money. And I don't know when they
15 will get the money. Did you hear from them?

16 MS. PRUITT: Yes.

17 CHAIRPERSON REID: What did they say this
18 time?

19 MS. PRUITT: Um, give us more time. I
20 mean that's been the problem. We've never been able
21 to get anything hard. They say we'll we're talking
22 with HUD, we're talking with other people. It's a
23 \$6,000 fee, they did pay one, \$60,000, excuse me --

24 CHAIRPERSON REID: Yeah, uh --

25 MS. PRUITT: -- they did pay \$1,000 of

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1 it.

2 CHAIRPERSON REID: Well Parkside is a, a
3 non-profit low-income development, and I don't, it's
4 in an area where they're trying to stimulate housing,
5 which is direly needed. And the intention is good,
6 they have a wonderful program over there.

7 And this is why I think the Board has
8 been very lenient and giving them more time, and more
9 time, and more time, but \$60,000 is a lot of money.

10 MS. PRUITT: And we're into our fourth
11 year of deferring --

12 CHAIRPERSON REID: Yeah, and they paid how
13 much?

14 MS. PRUITT: \$1,000.

15 CHAIRPERSON REID: \$1,000. So, I don't
16 know that this, unless they have, I think that it's a
17 HUD financed, HUD grant, and I know that there was
18 some contribution by HUD. It's one of those kinds of
19 projects, like some type of joint partnership with
20 the City and HUD and funds, sometimes are tied up for
21 whatever reason, due to bureaucratic red tape and
22 they can't get the funds out, they have to wait.

23 And I think that that project has been
24 sitting dormant for some time now. And I don't
25 understand what's happening with it.

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1 VICE CHAIR SOCKWELL: What do you mean
2 dormant? Part of it's occupied. I don't understand
3 what you mean.

4 MS. PRUITT: This is Phase II.

5 CHAIRPERSON REID: There's another Phase
6 II, there's another phase that hasn't gotten off the
7 ground. You know, the first phase is going well,
8 but, it's some kind of problem, and I don't know what
9 it is. I wish they would let us know, what the
10 problem is cause I really, because I know that these
11 grass roots organizations have a difficult time.

12 I just had to completely just dismiss it.

13 And even if we gave them a time certain, I wish they
14 would let us, that they could let us know why it is
15 that they, that it is taking them so much time, not
16 to be able to get here.

17 Why it's taken so much time for them to
18 get here.

19 VICE CHAIR SOCKWELL: May I ask Staff a
20 question Madam Chair? How much actual staff time is
21 being devoted to this project?

22 MS. PRUITT: Um, aside from the hearings?
23 I can't speak for the hearings because I wasn't
24 here.

25 VICE CHAIR SOCKWELL: Aside from that

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1 which has already taken place. The hearings.

2 MS. PRUITT: Well we've sent out five
3 letters and numerous calls.

4 VICE CHAIR SOCKWELL: Okay, so we're not
5 talking about a lot of staff time.

6 MS. PRUITT: No. It's just more of a
7 matter of we're trying just to --

8 CHAIRPERSON REID: Yeah, --

9 MS. PRUITT: We originally gave them an
10 indefinite continuance.

11 VICE CHAIR SOCKWELL: Uh-huh.

12 MS. PRUITT: We would really like to not
13 do that anymore, to give them a definite continuance,
14 because it, what happens is you can lose track of
15 cases, things fall through the crack.

16 So if we have a time certain when they
17 have to respond one way or another, and then you can
18 make another decision, that's fine. But this
19 indefinite one puts us in a limbo forever.

20 VICE CHAIR SOCKWELL: All right, the
21 question I would raise is again one of
22 appropriateness. The community has received a great
23 deal of accolade, it's been written up in the press
24 on many instances as to the neighborhood feeling that
25 it had generated the kind of activity, the street

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1 level, low level even scale of the project, all sorts
2 of things that we architects like to hear about.

3 But at the same time it is among several
4 developments in that neighborhood that are at least a
5 kernel of hope for regeneration of a viable
6 community. And we may wish to if there's not enough
7 staff time involved, we may wish to give them a
8 rather special preference in that regard simply
9 because of what the project stands for.

10 Not necessarily that it is hurting our
11 schedule or doing anything other than leaving one
12 case undone. We'll soon have no back-log at all and
13 this would just be a hangout.

14 And I think maybe it is an opportunity
15 for us to step away from what we would normally do.

16 MS. PRUITT: We --

17 MEMBER RENSHAW: I would like to point out
18 that this doesn't excuse the management of this
19 project from informing the Board exactly why there is
20 such difficulty.

21 And I would hope that the management of
22 the project would be corresponding with HUD if this
23 is a HUD financed project, to explain the need to pay
24 and to work out some kind of an agreeable schedule
25 with the Board to pay what is due.

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1 I had, when I reviewed this I wasn't
2 quite sure whether this was a special exception or a
3 variance. What are they asking for?

4 MS. PRUITT: To be honest Mr. Renshaw, I
5 can't remember, I'd have to go back and look. It's
6 been. I wasn't even here then. I never, so I'd have
7 to go back and --

8 MEMBER RENSHAW: So it predates both of
9 us.

10 MS. PRUITT: Yes.

11 MEMBER RENSHAW: But in any case I think
12 that the Board should send a letter to this, the
13 project management with a CC to HUD and to state the
14 facts of the case, that it's been four years and we
15 have received 1,000 of \$60,000.

16 And we would like to have a response by a
17 date certain as to what the schedule of payment is
18 going to be, and that we encourage them to come
19 forward with the information.

20 And that it will be shared at a public
21 session of the Board, and that we, of course have
22 good feelings for this project and hope very much
23 that it will succeed.

24 VICE CHAIR SOCKWELL: May I make a
25 suggestion to Ms. Renshaw's request, and that is we

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1 contact the developer with a request for information
2 on when and why and what the problems are, and that
3 we give the developer 30 days to respond, at which
4 time we can decide whether or not to send another
5 letter and CC HUD at that time, once we know exactly
6 what's going on.

7 And then, the 30 days would be, after 30
8 days if they don't respond then the Board would take
9 action.

10 MS. PRUITT: Well the original letters
11 have gone to the developer with those types of
12 questions.

13 CHAIRPERSON REID: Yeah. --

14 VICE CHAIR SOCKWELL: -- 30 day turnaround
15 absolute --

16 MS. PRUITT: No, actually we've given them
17 a lot more time.

18 CHAIRPERSON REID: Let Mr. Hood --

19 COMMISSIONER HOOD: Can I just say that I
20 think that this, the Board of Zoning Adjustment as
21 well as the Commission, we've been under scrutiny, of
22 putting things, and just putting them on to the side
23 and leaving them there.

24 I think the staff is not being
25 unreasonable. I think that we can give them a date

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1 certain today of three months, and then if we take,
2 after those three months, if we extend it another
3 three months, then that's fine.

4 But let's, at least if we say three
5 months now, we should hopefully get some type of
6 response. We're going to act on this in three
7 months. You know whether they, and I agree with low
8 income and I understand all that. But we still have
9 this lingering on and it's considered as far as I'm
10 concerned back-log.

11 CHAIRPERSON REID: Well scrutiny or no
12 scrutiny, I think that what we have to also remember
13 is that we're the ones who have the charge to dispose
14 of this or to handle this in a way that we deem to be
15 appropriate.

16 I don't want, and I want to be very clear
17 on the record. I don't want to feel as though we
18 have to be pressured, or to be pawns of any political
19 or special interest groups.

20 I want to be very clear about that.

21 COMMISSIONER HOOD: I think that we need
22 to start, Madam Chair, if I can interrupt you like
23 you would do me, I think we need to stop speculating
24 again. I think that's speculative, what I'm simply
25 saying is so we can move this operation forward as a

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1 Board of Zoning Adjustment.

2 Let's give them a time certain, let's
3 move forward. If they're not able to deal with it in
4 three months then we'll approach it again. That's
5 all I'm saying.

6 CHAIRPERSON REID: You just said that.
7 You just said that.

8 COMMISSIONER HOOD: Well I know I just
9 said that, but you came back and said that I was
10 talking about politically pressured. I'm not
11 pressured.

12 CHAIRPERSON REID: No, I didn't say --

13 COMMISSIONER HOOD: I don't think this
14 Board should ever move in a political context --

15 CHAIRPERSON REID: I didn't say that you
16 said, I said that that's what these are, that that is
17 the atmosphere. I did not say you Mr. Hood.
18 Nonetheless, nonetheless.

19 In this particular instance, since let me
20 give you some history on this particular case, this
21 was an appeal that came to us asking for the waives
22 to be, I'm sorry, the fees to be waived, because
23 there was not enough funds in this particular
24 development to make the numbers work to move forward
25 with paying those kinds of fees.

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1 And it appeared from what I can remember
2 of that particular hearing that there was a, an
3 instance where before, in some, I think in the first
4 phase and we'll have to look in the history to see
5 where the phase, the fees were waived.

6 And when they came this time, the fees
7 weren't waived and that caused a stumbling block, and
8 as a result of that they had to go back and regroup
9 and try to find how they could best move forward.

10 And for whatever reasons, they have not
11 been able to do that, and each time it's come up
12 we've asked the same questions that they go back,
13 that we have them go to developers, to go to the
14 Applicant, to send letters to find out what's going
15 on because we were reluctant to just dismiss it.

16 And when we gave the decision to give an
17 indefinite, a continuance was predicated upon the
18 information that was put before us at that time, and
19 that compelled the Board to make that decision.

20 Now, the problem I have with that, is
21 that I don't have a problem with sending out more
22 letters, and telling them in 30 days, 60 days,
23 whatever it is, to respond, that's no problem, that's
24 just business.

25 And I think that we should do that, it's

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1 appropriate. But the problem I have with having made
2 a decision, a vote of this Board for an indefinite
3 continuance we said well.

4 And it was based on what was before us
5 that day was very, very compelling, indefinite
6 continuance, and then you come back with some time
7 later and change that. I have a problem with that.
8 I don't know how you can do it, legally.

9 MEMBER RENSHAW: I'm really not clear who
10 are the actors in this case. So it's difficult to
11 talk about developer versus the Applicant, if, are
12 they one in the same, I really don't know.

13 But I do feel that the Board has been
14 generous in its handling of the case over a four-year
15 period. That seems to be quite an indefinite period
16 to me, and I think that it is within the boundaries
17 of the Board to put closure on this to ask of the
18 party what are the circumstances now and what kind of
19 a schedule, a payment schedule, can be made with
20 perhaps the financier which I take it is HUD, with
21 HUD approval to pay what is due.

22 And I think that it is very businesslike
23 and very much within the realm of this Board, and I
24 don't think that it is shall we say setting aside
25 this indefinite continuance, but I feel that we just

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1 have to put closure to this.

2 CHAIRPERSON REID: I agree.

3 COMMISSIONER HOOD: Has Staff exhausted
4 all of its research and finding out you know, who the
5 players are --

6 CHAIRPERSON REID: Yeah. Over and over.

7 COMMISSIONER HOOD: Over, and over, okay.

8 MS. PRUITT: Aside from the letters we've
9 informally called them too. I mean these are
10 official letters.

11 COMMISSIONER HOOD: You held meetings and
12 --

13 MS. PRUITT: but in between I know the
14 prior secretary Tracy had been in contact with them
15 much closer to, I mean they were in much closer
16 contact, closer to the actual decision date, to get
17 some understanding.

18 And then we kind of backed off a little
19 bit. But we have also not only sent letters, but
20 called to find out where they are in the process, and
21 you know, they keep telling us well we have some
22 problems with HUD and we can't get anything more than
23 that.

24 COMMISSIONER HOOD: Yeah because I think
25 it's important that Staff make sure that they've

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1 exhausted all the research cause you never know with
2 a lot of Federal Funding and appropriations, maybe
3 money is coming in in different phases too, so.

4 MS. PRUITT: And that's all we were asking
5 for, the some understanding --

6 CHAIRPERSON REID: Sure.

7 MS. PRUITT: And they just keep, what we
8 get back is well we're working with HUD. And that's
9 what the letters say coming back. I'm, we're going
10 to get the file. This, we usually get a paragraph
11 back requesting a continuance.

12 CHAIRPERSON REID: Usually, just one
13 second. Usually, when you, this comes up, there's a
14 letter from them that we can basically glean some
15 background, some information as to where they are at
16 this time.

17 MS. PRUITT: And that's usually
18 precipitated by a call from Staff earlier, you know,
19 just checking up to find out where things are and
20 what's happening.

21 COMMISSIONER HOOD: It sounds like this is
22 just some general communication issues that, what's
23 been going on.

24 MS. PRUITT: Yeah, and I believe, I don't
25 know if Parkside has had some changes in their

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1 management, which I believe they have had some
2 changes in project managers, so some of that
3 information may have fallen through on their end.

4 VICE CHAIR SOCKWELL: So Ms. Pruitt is
5 this a, this was Telesys at one time, and Telesys is,
6 or is not still involved with the project.

7 MS. PRUITT: I'm not sure. In fact the
8 last letter that went out was, we, I, was actually
9 April first of this, 1999.

10 CHAIRPERSON REID: No.

11 MR. HART: No, from them.

12 MR. PRUITT: From them, I'm sorry, that
13 came back it says this is in reference to BZA
14 Application 16144 in connection with Parkside. We
15 have previously requested consideration,
16 reconsideration fees to be charged in connection with
17 this application. We are hereby requesting a
18 postponement of such. Your assistance is graciously
19 appreciated.

20 VICE CHAIR SOCKWELL: Okay, so it doesn't

21 --

22 MS. PRUITT: And that's been the sort of
23 party line.

24 VICE CHAIR SOCKWELL: So, so --

25 MEMBER RENSHAW: Who signed the letter?

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1 MS. PRUITT: Marian MacKinnon (phonetic).

2 MEMBER RENSHAW: And who is she?

3 MS. PRUITT: Uh --

4 MR. HART: The Director of the Project.

5 MEMBER RENSHAW: Is she --

6 MR. HART: Didn't they say something to
7 Mr. Sockwell as if Telesys is still in charge, is
8 still running the project. That I'm not sure about,
9 but late last year, I checked -- and -- answered and
10 since then I've been speaking to someone else because
11 I got the impression from her that she was passing
12 the project over to some other entity.

13 So, but the point is I spoke to the
14 representative for the new entity, whoever that may
15 be, and they again gave me the sort of information we
16 heard here. We are looking into, to financing and it
17 wasn't anything definitive.

18 VICE CHAIR SOCKWELL: On that basis then,
19 perhaps I can suggest that rather than contact the
20 developer that we contact HUD directly, providing HUD
21 with the pertinent details of the project so that if
22 it's a Section 20 whatever, that the person in charge
23 of that for the Region would be able to respond to us
24 as to where, where HUD stands on this.

25 If, if HUD tells us what we need to know

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1 and the developer is not, then we will know. Because
2 HUD will say either that that project has been de-
3 listed --

4 MR. HART: Right. Mr. Sockwell you're
5 assuming that HUD is the only --

6 VICE CHAIR SOCKWELL: That was an
7 assumption.

8 MR. HART: Yes.

9 VICE CHAIR SOCKWELL: And I assume that
10 you have a full record. I haven't seen the full case
11 load, case record, so I don't know. But somewhere we
12 --

13 CHAIRPERSON REID: --

14 VICE CHAIR SOCKWELL: They can hold us,
15 they can hold us off on the fee for ten years, while
16 the neighborhood improves or development potentials
17 improve, or maybe the economics of the original
18 project didn't pan out and they're trying to secure
19 additional funding, et cetera, et cetera, et cetera.

20 And if they're not giving us any
21 definitive information on why they have not paid,
22 then we should put a date certain to get that
23 information. That's all we're asking for immediately
24 is some facts.

25 Now to say please and thank you isn't

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1 enough.

2 CHAIRPERSON REID: Yeah, in the, the
3 original hearing submission there is information
4 about the project and about the figures, if I'm not
5 mistaken, some figures that are coming from different
6 entities to make this project work.

7 And it could be that they have, I think
8 the numbers were worked without the \$60,000. And, as
9 you well know with projects, that \$60,000 difference
10 can make or break a project.

11 So they may have had to go back. My
12 understanding was that if they had to regroup and go
13 back and to have that money allocated. Now, I think
14 that HUD, I really think that, and this is
15 speculation, that that's what the holdup is.

16 So if we can --

17 VICE CHAIR SOCKWELL: Madame Chair?

18 COMMISSIONER HOOD: Can I just ask --

19 VICE CHAIR SOCKWELL: Let me just say this
20 Mr. Hood. Madam Chair, for a project that I would
21 assume to be the size of Phase II, \$60,000 should not
22 be a make it or break it dollar number.

23 CHAIRPERSON REID: Well, that's what they,
24 that is what, that, the day of the hearing, and look
25 at it, that was a major, major stumbling block that

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1 appeared, because they did not anticipate that,
2 having to put that out.

3 COMMISSIONER HOOD: Well I --

4 CHAIRPERSON REID: Excuse me. Let Mr. --

5 COMMISSIONER HOOD: I agree with, I agree
6 with the last statement that Mr. Sockwell made, but
7 I'm just curious. The first time, since you gave us
8 that eloquent history. The first time was you said
9 the fees were waived.

10 CHAIRPERSON REID: No, no, no, Phase I
11 fees were waived.

12 COMMISSIONER HOOD: That's what I'm
13 saying, Phase I.

14 CHAIRPERSON REID: Yeah, they're coming
15 back with Phase II.

16 COMMISSIONER HOOD: Phase I's fees were
17 waived. Other than being short of money in the
18 office why wasn't, and I'm just asking, why wasn't
19 Phase II waived?

20 MS. PRUITT: Unfortunately Mr. Hood I
21 can't answer that.

22 CHAIRPERSON REID: We stopped waiving fees
23 period, on all non-profit. We just didn't waive any
24 more fees after --

25 COMMISSIONER HOOD: After a certain time.

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1 CHAIRPERSON REID: When we went through
2 that, s steer period when we didn't have funds, we
3 just stopped waiving fees. Mr. Hart, please?

4 MR. HART: Thank you. To follow-up on the
5 point you made. The differences started to come up
6 when the Applicant made the \$1,000 down payment in an
7 effort to get the Order which has been written.

8 When we came up with that ruling that we
9 would give them, there was no relief for them, that
10 started the whole thing and it all focuses on the
11 fact that they had not anticipated paying the 60,000
12 and just by talking to them and reading the files
13 here, I get the impression that there may be more to
14 it than just.

15 Or, what is the main thing is about not
16 thinking that they should pay the fees and -- that is
17 what I hear --

18 MEMBER RENSHAW: All right, well I think
19 that we, to move this forward we can speculate and
20 kind of break some ground there, but let's get the
21 letter off to HUD, I agree with Mr. Sockwell that
22 that's an appropriate avenue, and set a date when the
23 information is to be received by the Board and stress
24 in the letter that we would like to bring it up at a
25 certain public hearing, and dispose of it at that

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1 time.

2 But it seems to me that if they are, if
3 this project is getting any HUD money, that they may
4 be delinquent with their, the HUD arrangement if they
5 are not paying the fees that have to be paid on this
6 project.

7 And I would again, we're all guessing,
8 but it could be that HUD just doesn't know that this
9 is an outstanding debt.

10 MS. PRUITT: Ms. Renshaw, I just want to
11 be clear, you'd like the letter to go to HUD and the
12 letter would include a date certain in which they
13 would provide back to the Board a payment schedule
14 or, where they are in the process?

15 CHAIRPERSON REID: We could ask --

16 MEMBER RENSHAW: No.

17 CHAIRPERSON REID: We could ask them. Go
18 ahead.

19 MS. PRUITT: I just wanted to get clear
20 some --

21 MEMBER RENSHAW: I'm just kind of duck-
22 tailing on the very good recommendation of Mr.
23 Sockwell that the correspondence go to the Regional
24 Director of HUD and that we have a date certain for a
25 response from HUD for information on this project,

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1 whether it is going forward, and explain a little bit
2 about the difficult, the fees that have not been
3 paid, and that we are looking from the Applicant for
4 a date certain when these fees will be paid.

5 And it's been going on for four years.

6 MS. PRUITT: Okay.

7 CHAIRPERSON REID: When you forward the
8 letter to HUD, I think that you should talk to the
9 Applicant and find out who is the Project Manager at
10 HUD, because if you send it just to HUD it can get
11 lost for days before it gets to the right person.

12 But ask specifically to identify for you
13 the key person at HUD that they have been dealing
14 with.

15 MEMBER RENSHAW: Madam Chair, I would send
16 it to the Regional Director of HUD.

17 CHAIRPERSON REID: You can do both.

18 MEMBER RENSHAW: The top person and CC the
19 Project Manager.

20 CHAIRPERSON REID: Yeah, you can do both.

21 VICE CHAIR SOCKWELL: It, Madam Chair, it
22 would go to Region 3, I believe, and it would go to
23 Housing, perhaps Housing Management, and in fact if
24 necessary I could make a couple of calls to HUD where
25 I have friends and perhaps could get a more targeted

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1 location.

2 MS. PRUITT: We'd appreciate that, thank
3 you.

4 CHAIRPERSON REID: But why do that when
5 you can just ask the, ask the Applicant, who the
6 persons are? You can do both.

7 MS. PRUITT: We can double check.

8 VICE CHAIR SOCKWELL: Yeah, you can take
9 it either way. And I think that it probably is
10 appropriate to go to the Applicant. At least
11 verbally before going to HUD because that's the fair
12 way to do it.

13 And if the Applicant becomes forthcoming
14 as a result of not wanting us to go to HUD or feeling
15 that it would be more appropriate to protect his
16 interests for him to make the correspondence with
17 HUD, then that's fine.

18 I'm not sure that we should tell HUD that
19 they owe us \$60,000, da, da, da, da, da, necessarily.

20 But I do think that we need to push this thing
21 forward, and we can use the velvet hammer, which is
22 to go to the Applicant verbally and say without
23 information from you we are forced to correspond
24 directly with the Department of Housing and Urban
25 Development, which we understand is one of your

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1 primarily lenders, da, da, da, da, da. See what they
2 do.

3 MEMBER RENSHAW: But I want, I want to be
4 clear that this Board is sending the letter to HUD to
5 ask the status of the project. I think we need some,
6 something in the file that tells us as of this date
7 that the project is a viable project. All right?

8 CHAIRPERSON REID: Okay? Is that the last
9 item? All right, then this concludes, no it, it
10 wasn't, it wasn't something put up a vote. This was
11 just for information.

12 MS. PRUITT: Right.

13 CHAIRPERSON REID: And we weren't making
14 any kind of or taking any kind of position, except
15 for to direct Staff as to what we would like to get
16 from them and then once they receive it they will
17 then bring it back to us in a meeting.

18 Okay? All right. This then concludes
19 this morning's hearing. Thank you.

20 (Whereupon the public meeting was
21 concluded.)
22

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