

*CITY COUNCIL MEETING OF
November 15, 2006*

**COMBINED VERBATIM TRANSCRIPT - ITEM 63 AND
ITEM 64**

Bill No. 2006-63 Adopts a new Chapter 10.44A of the Municipal Code, relating to solicitation. Proposed by: Bradford R. Jerbic, City Attorney

Bill No. 2006-64 Adopts a new Chapter 11.68A of the Municipal Code, relating to the Citys Pedestrian Mall. Proposed by: Bradford R. Jerbic, City Attorney

APPEARANCE LIST:

OSCAR GOODMAN, Mayor

BRAD JERBIC, City Attorney

GARY REESE, Councilman

LOIS TARKANIAN, Councilwoman

JEFF VICTOR, President and General Manager, Fremont Street Experience

PAT RILEY, Attorney for Fremont Street Experience

MARK BRANDENBERG, owner of Golden Gate Hotel & Casino

GARY PECK, Executive Director of ACLU

TOM MCGOWAN, Las Vegas resident

JOHN VINO, representing Fremont Street Experience retail merchants

TED RUSSELL, Las Vegas resident

STEVE WOLFSON, Councilman

(1:57:37 - 2:32:40)

35 minutes

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MAYOR GOODMAN

Item 63 is Bill Number 2006 dash 63, adopts a new Chapter ten point three four A, of the Municipal Code, relating to solicitation. Mr. Jerbic.

BRAD JERBIC

I would be happy to read it for the record, Your Honor. Bill Number 26 oh, 2006 dash 63, an ordinance to adopt a new Chapter ten point four, four of the Municipal Code relating to solicitation periphery related matters. I come to the podium today because this bill and the bill that follows. We have a couple people here from Fremont Street Experience that probably wanna put a few things on the record, and they probably some questions that Council may wanna ask, regarding these bills.

MAYOR GOODMAN

All right. May I suggest that we also read into the record Bill Num, Item Number 64 at the same time, or not?

BRAD JERBIC

We can. I'm gonna have a different; I think it's probably good to read it in the record. It's gonna take two separate votes. I'm gonna have a proposed First Amendment, to the second Bill.

MAYOR GOODMAN

Okay, very good.

BRAD JERBIC

So

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MAYOR GOODMAN

Item 64 is Bill Number 2006 dash 64, adopts a new Chapter 11 point six eight A, of the Municipal Code, relating to the City's Pedestrian Law. Did you wanna make an amendment?

BRAD JERBIC

Well, what I'm gonna do, Your Honor, I'm gonna first make a record on the Solicitation Bill, and then when I turn my attention to the Pedestrian Law Bill, I'll read it real quickly. Bill 20 oh six dash 64 is known as to adopt a new Chapter 10, 11 point 68A of the Municipal Code, relating to the City's Pedestrian Mall periphery related matters. The Ninth Circuit Court of Appeals a little over two weeks ago struck down two Ordinances, one in whole and one in part, with respect to the City's regulation to the Pedestrian Mall, also known as the Fremont Street Experience. Before you today are two new Bills that do not replace those laws which were struck down. These are laws that lay on top of those laws. The reason we structured it this way is to preserve our appellate rights, with respect to any little challenges that remain, following the Ninth Circuit decision. So the original solicitation Ordinance, and the original Pedestrian Mall Ordinance are still on the books. This is Version A of each of those ordinances. And I can walk through them very quickly.

MAYOR GOODMAN

I'd like you to do that.

BRAD JERBIC

First of all, Bill Number 20 oh six dash 63, is ten 44A. That's just a new solicitation ordinance for the City of Las Vegas. It contains both a new more limited definition, of solicitation. And it removes the prohibition of soliciting in the Pedestrian Mall, from this particular ordinance. It is an 11 point 68A, the ordinance that follows this ordinance, but it is removed from the Solicitation Ordinance. I know that a lot of people think that these

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decision. And, so 10 point four, four A, now stands alone, as a Solicitation Ordinance, that is city wide, that does not have anything to do with the Fremont Street Experience. The prohibition against solicitation is now contained in 11 point 68A, which is the Pedestrian Mall Ordinance. Where we made some changes, where we eliminated some language, we added some language and we added the prohibition against solicitation in 11 point six eight, 100 subsection K, which is on page seven. What I'd like to do at this point in time is file with the Clerk a proposed First Amendment and walk through the changes. They too are fairly minor but significant, for appellate purposes. First of all, 11 point six, eight A oh one oh, is the Preamble to that new Ordinance. And in the Preamble, the language was temporally incorrect. It was language that reflected a record that was made several years ago when the Fremont Street Experience was first constructed. We added some language that merely brought it up to date.

The second thing we do, in 11 point six eight A oh one oh is we incorporate the record, from all the other Council meetings, where these ordinances has been considered in the past because we're gonna need that record, if we get a legal challenge to these. With those, that on that on the record, Your Honor, I'll be glad to answer any questions.

MAYOR GOODMAN

All right. I have a couple of questions and a statement. The number one complaint that my office receives as the Mayor of the City of Las Vegas pertains to the practice that takes place in the unincorporated area of the County, particular on the Strip, where local and visitors alike are accosted, assaulted and sometimes battered, by persons who are handing out invitations for salacious acts. And we respond of course, saying that we have no jurisdiction over this. But very bothersome to our constituents as well as to the people who frequent the various casinos. Im a great believer of freedom of speech, freedom of expression. But Im also a great believer in peoples right to be left alone. And if they don't want to be subjected to this kind of assaulted behavior, that they should not be subject to that indignity. Does this address that concern?

BRAD JERBIC

It does.

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MAYOR GOODMAN

All right. Tell me how.

BRAD JERBIC

In two respects, course of solicitation, that is aggressive solicitation is prohibited city wide, not just in the Fremont Street Experience. So if the solicitous behavior rises to that level, it's a misdemeanor. It's prohibited by law. They'll be cited, they'll even be arrested if necessary. And we can handle it that way

MAYOR GOODMAN

Do we know why the County hasn't done that?

BRAD JERBIC

I don't know if it's an enforcement issue or if it's a legal issue. I have had no discussion with the County, as to

MAYOR GOODMAN

I'll tell you, what you do is drive down the Strip and you see these people they stick this stuff right in front of people's faces. There are people that are going like this. And they keep going, putting in their face. And if that, if we can arrest somebody for doing that, I want 'em arrested, you bet.

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BRAD JERBIC

The other thing that you'll find in 11 point six eight A is the restriction regarding mall advertising. And people that hand out literature that isn't for an immediate donation, for some immediate solicitation may well be prohibited by that portion of the ordinances as well. So there are two ways that we approach this issue in the Pedestrian Mall.

MAYOR GOODMAN

Well, those are my questions. Does anybody, 'cuse me.

COUNCILMAN REESE

I was just telling the Mayor, my brother-in-law came down here with my little sister to a convention two years ago. And they got basically the whole convention center on Convention Center Drive. And they my brother-in-law tried protect my little sister. They were throwing some smut in her face, and she tried to refuse it. And the guy that was trying to shove it at her. And to me it was, from what my brother-in-law said, it was really disorderly, what he was doing. And so, he got confrontation with this guy. And the guy called him names, and called her names and all this other stuff. And that's just, I know for a fact, you know. And I get probably seven or eight letters a day. I mean a year, commenting on the same type of behavior. And people write to our offices, thinking that because we are Las Vegas. And it happens in the County. And we try, I write 'em a nice letter, tell them that this happened at County. And this is what we're trying to do, and this is what we've done. And it is a real problem. And again, I respect people's rights too. But I also respect those people rights that tell them, no thank you. And when they get abused, than its wrong.

MAYOR GOODMAN

that there are some folks that wanna be heard on this. Let's put a three minute timer on. Okay. Thank you. Why don't you folks have a seat, and we'll call on you at the appropriate time, please. Thank you. All right. Won't you have seat. Good. I assume

BRAD JERBIC

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If we could, let me introduce Pat Riley.

MAYOR GOODMAN

Fine.

BRAD JERBIC

Who is a fine lawyer, and represents Fremont Street Experience. And, Mr. Jeff Victor, who's the President, CEO of the Fremont Street Experience.

MAYOR GOODMAN

Okay, very good. Gentleman, please identify yourself for the record and we'd be happy to hear from you. And Bev, let's have a three minute clock, please.

COUNCILWOMAN TARKANIAN

Mr. Mayor, could I just ask? Are we just considering comments on Item Number 63 now, and not 64? Or are we combining

MAYOR GOODMAN

On both

COUNCILWOMAN TARKANIAN

The comments

MAYOR GOODMAN

On both, please.

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COUNCILWOMAN TARKANIAN

On both. Okay. Thank you.

MAYOR GOODMAN

Mr. Victor.

JEFF VICTOR

Good morning, Your Honor, and City Councilmembers. My name is Jeff Victor, and I'm the President and General Manager of the Fremont Street Experience Limited Liability Company, of 425 Fremont Street. I'm here today on behalf of the company and each of its ten members. Speaking in support the Ordinance, two thousand and six dash 64. As the Council is aware, the Fremont Street Experience has been in operation since its creation in 1995. It was originally envisioned to be a truly unique, one of a kind, destination intended to attract millions of tourist every year, and to help drive capitol investment, heart to the heart of downtown Las Vegas. Through the years between, the Fremont Street has delivered on that intent. In fact, the LVCVA reported that the visitation to downtown in two thousand and five, exceeded 17 point seven million people. To put that number in perspective, according to the Trade Publication Amusement Business, the two best attended amusement parks in the world in two thousand and five, were Disney's Magic Kingdom, in Orlando and Disneyland, in Southern California. Publication reported that those two parks attracted 16 point one million and 14 point five million visitors respectfully, during the year. Attracting attendance numbers like that doesn't happen by accident. To do so requires a numerous capital investment, exceptionally inventive entertainment offerings, ongoing management, constant promotion in the promise of delivering a clean, safe and enjoyable environment. Nineteen ninety-five the City of Las Vegas delegated the authority to manage the Fremont Street Experience to the company I now preside over. Today and everyday for the past 11 years our office has successfully managed security, maintenance, cleanliness, promotion, advertisement, live entertainment, light show destinations available anywhere. The Ninth Circuits recent decision regarding solicitation programming and special events

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threatens to change all that. It might not be widely understood that the company generates a significant portion of its revenues through the malls leased retail operations, corporate sponsorships, sale of advertising space, and through hosting private events. The dollars collected through those activities are in turn spent to create free entertainment offering, to pay for the electric bill and to pay for the labor and supplies necessary to manage the cleanliness, security, maintenance of the mall. These activities attract visitors, who then spend the money through the various points of commerce, thus creating jobs and tax revenues. This rather simple formula works very, very well. The key to that formula is the company's ability to continue to manage the mall environment, as they've done, as it is done the past 11 years. Solicitation activities left unbridled are fundamentally incompatible with the character and function of the mall. Corporate sponsors will not be associated with an environment where panhandling is allowed to flourish. Advertisers will not pay to do so in an environment where others are allowed to do so for free. No event organizer will pay to hold private function in an environment where their clients will be exposed to intrusions from uncontrolled solicitation.

MAYOR GOODMAN

Mr. Victor I'm gonna have to cut you short. Because I wanna gone have a level playing field here. I wanna hold everybody to three minutes. And maybe your colleague will be able to pick up where you left off.

JEFF VICTOR

Thank you.

BRAD JERBIC

Your Honor, if I could suggest for the record, Mr. Victor's comments has been written down. If you could just submit them in writing
MAYOR GOODMAN
Absolutely

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BRAD JERBIC

For the Clerk

MAYOR GOODMAN

Yup.

PAT RILEY

Oh, I can do that.

MAYOR GOODMAN

Oh, absolutely. But, I have no problem with the oral expression because I think that it's important for the public to know.

PAT RILEY

I'm handing a copy to the Clerk for the record.

MAYOR GOODMAN

Very good. Thank you.

PAT RILEY

Thank you.

COUNCILWOMAN TARKANIAN

Mr. Mayor.

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MAYOR GOODMAN

Yes.

COUNCILWOMAN TARKANIAN

I wondered if I could ask Mr. Jerbic a question.

MAYOR GOODMAN

Sure.

COUNCILWOMAN TARKANIAN

If he could come back.

MAYOR TARKANIAN

Mr. Jerbic, Councilwoman has a question.

COUNCILWOMAN TARKANIAN

Mr. Jerbic, I strongly support the need to preserve the economic viability of the Fremont Street Experience. But I am concerned about some, reemphasizing some of the information that has been brought to the Council's attention and what you addressed yesterday. In Recommending Committee, yesterday afternoon, the Carpenters Union made a presentation regarding the preservation of labor unions rights to picket and assemble and labor disputes on Fremont Street. And, Mr. Jerbic, you explained those rights would not be changed. In the previous ordinance, these rights were addressed and the rights would remain. But I wonder if you could just put in the open record today, for those that might be questioning your response and how you addressed that question.

BRAD JERBIC

in this country. But you can get more rights from State Governments, from Local Governments, from Federal Governments. In the case of labor, the National Labor
I'll be happy to. The, first of all, let me state that what we put on the record yesterday at the Recommending Committee is just the law. The Constitution gives everybody rights

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Relations Act has given more rights to labor because of the nature of unions and the way they organize. For example, labor could go on to private property, they can go into break rooms, they can go into common meeting rooms and hand out literature to people to build up membership. They can picket, they can go on private property for other labor-related activities, where you and I might be trespassed. That's just the law. That's the National Labor Relations Act. We respect that law. It was acknowledged originally in 11 point six eight. It's no longer in that ordinance as a result of the Ninth Circuit decision. But the law is still the law. And so, all labor rights that have always existed on Fremont Street existed under the old law and will continue to exist under the new law.

COUNCILWOMAN TARKANIAN

Just clarifying there's no change in that. Thank you very much.

BRAD JERBIC

That's correct.

MAYOR GOODMAN

All right. Thank you. Yes, sir. Would you like to be heard?

PAT RILEY

No, sir. I'd like to bring Mr. Brandonburg

MAYOR GOODMAN

A lawyer who doesn't want to be heard?

PAT RILEY

Oh, no, if you have questions, I'd be glad to answer them

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MAYOR GOODMAN

Okay. Fine.

PAT RILEY

I don't want to wand up as a witness

MAYOR GOODMAN

All right. Mr. Brandonburg. Fair enough, Mr. Brandonburg. That was a very nice affair that we had yesterday. Yesterday was a hundredth anniversary of the Golden Gate Hotel. And there was a wonderful ceremony that took place at the corner of Main and Fremont. It was the first location for a gaming house in Las Vegas that wasn't in a tent. And it's been successfully ever since that time. And I appreciate the fact that we celebrated it yesterday.

MARK BRANDONBURG

Thank you very much, Mr. Mayor. And we certainly appreciate your participation. We're very proud of our heritage and our tradition here in Las Vegas.

MAYOR GOODMAN

Very good. Bev, start the clock please.

MARK BRANDONBURG

My name is Mark Brandonburg. I own and operate the Golden Gate Casino at One Fremont Street, Las Vegas. I'm here to speak in support of the ordinances. I believe the question presented to the Council, Mr. Mayor and members of the Council is whether Fremont Street is to, is to remain an entertainment commercial venue, or to merely be an oversized sidewalk. And I'd like to talk a little about what happened in the past. Before the earlier, Mr. Mayor. Very detrimental to our commercial and tourist interest here. Research from UNLV showed that we had a very, again, a very strong perception by the public, panhandling, soliciting, the type of activity that you were describing visitors and locals alike, that was negative as a result of those particular types of activities.

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My personal experience at the Golden Gate simply affirmed those concerns. We had complaints from customers, when they'd walk up and down the streets before the Fremont Street Experience and encounter that type of activity and more particularly on special event occasions. When we would close the street, try to put a band or some type of entertainment on the street what we found is we'd created a magnet for that kind of activity. We put a band on the street, there'd be a crowd in front of the band. The next thing you know, you had people diving into the crowd with various types of commercial solicitation, whether it was to sell cheap jewelry, or whatever the case might be. And again, it was a problem for our guests. It made it very difficult for us to put on special events. And so early in the nineties when the changes in the industry brought downtown casinos together to try to find out what we could do to improve things downtown, to create an attraction, to create our own volcano, was the metaphor that we used in those days. I have a very specific recollection. I'm having been the new kid on the block. Sitting around the table with the likes of Steve Wynn and Bill Boyd, Jack Binion and others that we're trying to come up with something creative, something innovative to really help downtown compete. But the premise for anything there was, they said, before, no matter what we come up with, we have to control the environment. It's not gonna do us any good to create a dynamic attraction, if all we're doing is creating again another magnet, where we're gonna bring thousand of people downtown that's gonna attract kinds of solicitors. They'll come down and interfere with that experience. From the Fremont Street people aren't just trying to get from one place to another. That's not the function of the street. It is an attraction. It is an entertainment and commercial venue. And when you have that type of solicitation going on and people are trying to either watch a show overhead. It's just as if you we're sitting at a movie theater and you're trying to enjoy yourself. And you're sitting there with your wife or your kids, and you're interrupted with that type of act. And you're being solicited.

MAYOR GOODMAN

Im gonna have to

MARK BRANDONBURG

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I'm sorry but

MAYOR GOODMAN

If you have any written remarks , we'd be happy to consider those.

MARK BRANDONBURG

I thank you for your time.

MAYOR GOODMAN

Thank you very much. Anybody else, please? Mr. Peck.

GARY PECK

My name is Gary Peck; I'm the Executive Director of the American Civil Liberties Union of Nevada. I'll be succinct because I'm not gonna adjudicate issues that obviously inevitably are gonna be adjudicated, yet again, in Federal Court. Here is what I would say; first of all, I am astounded at the presentations, today First of all, the present, the Executive Director of the Carpenter's Union sits on my Board of Directors. I think he understands free speech, understands it well. I'm astonished that what we have read into the record again is the same sort of statement about labor having more free speech rights than everyone else. It's Black Letter Law. The Black Letter Law that was reiterated by the Ninth Circuit is you can't do that. That's A. B, we're right back where we started. Free speech is bad for business.

Because it's bad for business, we need to control the environment and squelch free speech. Thirdly, this is not a case about smut peddlers. It may be politically expedient to frame it that way. That argument went nowhere at the Ninth Circuit, the first time it's not going anywhere at the Ninth Circuit this time either. The Plaintiffs in our case were the Unitarians, the Sheena High Network, the American Civil Liberties Union of Nevada, the Progressive Leadership Alliance of Nevada and a number of other nonprofit organizations and individuals whose free speech rights were violated, as a result of that ordinance, in the same way they'll be violated as a result of this ordinance. So it's sort of obfuscation and hiding the ball, to pretend that that's what

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this law is about.

Then lastly, I just have to say. I respect the members of this Council and all the good work that they do. But let's get real, government always says when government passes laws that violates peoples free speech rights, no one cares more about free speech then we do, but. And this is a classic example of that. In a city that touts itself as a sanctuary of free speech to the world and the country, and a city that just christened a faux liberty bell, I think this action is embarrassing. I think it is shameful, and I think the federal courts will see it for what it is. I think any competent attorney can read the new ordinances, see that in light of the Ninth Circuit ruling, these new ordinances are as unconstitutional as the old ones. And it's unfortunate that the process has been little more then a charade. A Recommending Committee yesterday, a final vote today. Now opportunity for meaningful input, new amendments introduced. This is all charade. It's all theater. It's gonna pass, probably unanimously. It's gonna be back in court, and that's too bad. And I've heard from representatives of the City's, City Attorney's Office, gee, who cares, we don't have to pay the legal fees, Fremont Street will pay them. You oughta be concerned about the Constitution, not just the legal fees. Thank you.

MAYOR GOODMAN

Thank you.

TOM MCGOWAN

the context of their usage, the terms solicitation and panhandling are similar, but neither Tom McGowan, Las Vegas resident, concerned about the Constitution. I'll address both coincident or interchangeable. All advertising is solicitation. An attorney who pleads in a court of law is engaged in solicitation. But panhandling is a means of expression, indicative the state of indigence and impoverishment that is an inalienable right guaranteed secure by the First and Fourteenth Amendment of the Constitution of the United States. Any City Attorney, Deputy City Attorney or member of the City Council who thinks otherwise, doesn't know what's he's talking about, in plain English. In the classic motion picture of Our Man Godfrey during the Great Depression, William Powell said the

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principal that difference between a derelict and a man is a job. Panhandling is an effect but not the cause. Instead of criminalizing poverty, create good-paying full-time jobs and more affordable housing. And remember one thing; the biggest panhandlers of all are politicians and bureaucrats. I can prove that any time you're ready. How many pedestrian laws are there, city wide? And which pedestrian law does this subject bill apply to? And if not all of them equally, why not? In light of the Fourteenth Amendment, of the Constitution? These are very simple questions. They are probably not too challenging for this august body. You start anywhere. Go ahead.

MAYOR GOODMAN

Okay, we'll receive those remarks. Anybody else, please. Yes, sir.

JOHN VINO

Your Honor. Councilmembers. My name is John VINO. I represent some of the Fremont Street Experience's retail merchants. And we just really wanted express not so much the legality issues that you're dealing with, but hope that everybody keeps in mind the reality of what Fremont Street is. And I think we all agree in its essence is an entertaining venue. And we invite people down to visit Fremont Street to see our overhead show and to visit, to see our free concerts. And I feel we have an obligation more so that requires a certain level of security and safety when, for those that visit us. Our biggest issue is safety. I've watched the evolution of Fremont Street, in the early times. People would come down and ask is it safe for to visit. Is it safe to bring our children down there? And I really believe it would be a travesty if we regress back to a different level. Fremont Street does have a great mix of people on a daily basis, a nightly basis. It's an enclosed atmosphere. It makes us different from the Strip. Unfortunately, like everywhere else, sometimes people visiting don't come down with good intentions. And with the number of people that we have visiting on a daily basis, we just want to ensure that the policy on our ongoing basis is able to handle the poli, procedures necessary to deal with the issues that we have and continues to allow Fremont Street to create a positive experience. And, but more than anything, continues to provide the safety and benefit of not only the visitors, but for the people that work down there. Thank you.

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MAYOR GOODMAN

Thank you. Anybody else like to be heard?

TED RUSSELL

Good morning. My name is Ted Russell. I'm resident of Las Vegas. The Fremont Street Experience is a real treasure. So much of the impetus and the force for revitalizing downtown has emanated from the power of their very quality organization, Fremont Street Experience Incorporated. I offer a more moderate view. In the LVRJ, they interviewed one of the executives of the smut peddlers who was not even sure whether they would even visit the venue. I don't think it's a good potential for business there because it's so family-oriented, so quality and so wholesome. I also wanted to mention, I'm not fond of panhandling or panhandlers. But if they have the right to ask me to buy girl, give money to buy Girl Scott cookies, I guess they have a right to ask me to give money, so they can buy food or whatever their necessities they deem necessary. And I do regard that as a part of the First Amendment. Again, I think we need to do everything in all diligence to protect the Fremont Street Experience. But again, I don't see any potential for smut delivery there.

MAYOR GOODMAN

Thank you so much.

All right. Would anybody else like to be heard on this? All right. Thank you very much folks. Mr. Jerbic.

BRAD JERBIC

If I could just make some closing comments, Your Honor, and then allow the Council to vote on these. It probably won't make any difference what I say at the podium because people tend to have very strong feelings one side or the other about these kinds of ordinances. And I understand why. I do want to put on the record that we have been really diligently trying to follow the direction of the Ninth Circuit Court of Appeals and their recent decision regarding the Fremont Street Experience, in crafting these Ordinances. I

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know cynics will say otherwise. But that, I can tell you from the hard work that we put into it in my office, working with outside counselors as well, that there's a sincere effort to craft ordinances, that we believe will, I'm sorry. Your Honor

MAYOR GOODMAN

No. I was going to ask you to, if you can, I don't know if you're prepared to do this. To go through the history. This isn't a situation where we pass an ordinance and it's a silly ordinance. I mean, these are ordinances that are reviewed by fine judicial minds and judges who are sitting here, in Las Vegas, rule in our favor, their appeals. Judges in the Ninth Circuit either affirm the judge or reverse the judge. I mean, this isn't silliness. This is serious business. So, why don't you go through with the history, if you can, of these ordinances? And assure us at the end of the day that what is proposed before us, and we rely upon your good judgment and your good counsel will pass constitutional muster.

BRAD JERBIC

Let me go back to the beginning. The Fremont Street Experience was constructed in the before. And turn it into a commercial entertainment experience. It'd be a place where mid 1990's. And the original effort of the City was to take what was then a street and side people could come and eat at a cafe outside, come, where people could come and enjoy walk, convert it into a Pedestrian Mall, turn it into something that it was never vending opportunities on the street. There'd be stages set up for performances would occur. But most importantly, you would have this enormous canopy that would be a five block light show, where people would stand and watch a show several times a night. That environment is got to be controlled in order for people to go there. We made this record almost 10 years ago now. We were hopeful that the mall would create opportunity for the Fremont Street Experience, opportunity for businesses to grow downtown, and it worked. Part of the formula for the original Fremont Street Experience was that the City and the Redevelopment Agency would put in two bond issues, about 40 million dollars worth of taxpayer money into this project. The downtown casinos put in about another 15 million. And, the Las Vegas Convention Visitors Authority put in about another six million. So there's about 60 million dollar investment in this revitalization effort. One of the things

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that we hoped at the end of the day would occur was that it would take care of itself with no more taxpayer money. So the way this was designed was that the Fremont Street Experience Limited Liability Company would not only be the mall managers, but they could take advantage of every commercial opportunity in the mall, to make money to pay for the maintenance of the mall. I can tell you standing here, 10 years after the fact, not one taxpayer dime has paid for one kilowatt of electricity, the replacement of one light bulb in that canopy or one bit of cleanup on that street. Fremont Street Experience Limited Liability Company has been wholly responsible for the maintenance of that environment. Now, in that context, that environment needs to be controlled because who would rent a push cart and pay rent to these folks that's used for operation and maintenances, if you can set up a table for free and do the exact same thing. Who would come to a light show and stand literally body to body as they do every night, 17 million visitors a year, if someone is working the crowd asking for money instantly from you? Who would stand in front of a stage and watch a performance, if you're being worked by somebody in that crowd? That was what Mr. Victor was trying to state when he gave his statement to the Council. This environment needs to be controlled, not in every respect. But it needs to be controlled in some respects, in order to maintain its entertainment commercial viability. The first ordinance that were crafted, we thought did that. We thought that we had successfully turned the Fremont Street Experience into a private run commercial entertainment experience that was no longer a traditional public form. The District Court in Nevada agreed with us. It went up to the Ninth Circuit, the Ninth Circuit disagreed with the District Court Judge and said, no, it is still a traditional public form, you can't change it. You need to justify your ordinances as reasonable time, place and manner restrictions. We came back to the district court judge and in large part again, the District Court agreed with just about every part of our Ordinance scheme, went back to the Ninth Circuit, and Ninth Circuit said, no. That's the ruling that brought us here today. Now, as I stand here before you, I can't tell you what a judge is gonna do in the future. But this is less restrictive than the ordinances were before. And contrary to what a lot of people think that we're prohibiting free speech in the mall, we're not. This is a very limited time, place and manner restriction on a very select type of speech and in its delivery. It's a prohibition on just solicitation, which is an immediate

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asking for something. And it's a prohibition on mall advertising and things like that without Fremont Street Experience's permission. Other free speech rights have been allowed in that mall from the day it opened and they continue to exist. And I think that's one of the things that a lot of people don't realize about it is, we respect the decision, that it is a traditional public forum. We accept that. And these laws have been crafted acknowledging that.

MAYOR GOODMAN

All right. Thank you very much. Okay. Any questions or comments?

STEVE WOLFSON

Just quickly, Mayor Goodman.

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MAYOR GOODMAN

All right.

STEVE WOLFSON

And we touched on it briefly, and I just wanna make sure that it's clear. Mr. Jerbic, what you're attempting to do with these new proposed ordinances is to take what I'll call corrective legislative action. Meaning you've digested what the Ninth Circuit said, you analyzed what it said, and you basically concluded that this is in line with the directive that the Court has given us. So, these are new restrictive measures that in your opinion are consistent with the order of the Ninth Circuit.

BRAD JERBIC

That's correct. And not just in my opinion but the opinion of other attorneys in my office have reviewed it and outside counsel that employed with Fremont Street Experience that has reviewed it.

STEVE WOLFSON

Then I agree with the Mayor. What we do as a body here is we listen to our counsel, our counsel that has studied, digested, conferred with colleagues. And you make recommendations to us. And if we can't follow, generally speaking the recommendations of our City Attorney then something's wrong. Mr. Peck, I agree and I disagree with you. I agree that it's gonna be a higher court, a Ninth Circuit or whatever, that's gonna make the ultimate decision. But I disagree when you said that any competent attorney can see this is unconstitutional. Personally, I find that offensive. Because you talk about a charade, you talk about all that. That's what you were doing just then. Mr. Jerbic's extremely competent. And along with this, reasonable minds can differ.

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GARY PECK

I'm fairly certain you got the exact same advice from counsel the last time you drafted an ordinance. You're getting the same advice, again. I can assure you this law will be struck down. And, I can assure you it will be struck down for exactly the same reasons

MAYOR GOODMAN

All right. Thank you

GARY PECK

I'm strictly saying we listen to our counsel, and then we

MAYOR GOODMAN

All right. Thank you, Mr. Peck

GARY PECK

And then we make decisions inadequate

MAYOR GOODMAN

Thank you, Mr. Peck.

BRAD JERBIC

I would state for the record, that we gave some more advice years ago. And a fellow with a lot more legal education and experience than I have, wearing a black robe in Federal Court agreed with us on just about 99 percent of what was on the books. It was the Circuit that disagreed with him, that brought us back here today. So you even have disagreement among courts on these sorts of things. So for anybody to paint this as black and white, you know, it just isn't. And this is a very involving area of law but I think we've done our best, we've done our diligence in crafting these. And we wouldn't bring them before you today unless we felt comfortable.

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MAYOR GOODMAN

Thank you. **All right, can we have a motion, please on 63?** Cast vote. All right. It's on 63, let's vote, please. Post, motion carries. **(Motion carried unanimously)** Thank you. And on 64.

COUNCILWOMAN TARKANIAN

Move for the adoption.

MAYOR GOODMAN

Okay

BRAD JERBIC

As first amended?

MAYOR JERBIC

As first amended, that's correct

COUNCILWOMAN TARKANIAN

As first amended.

MAYOR GOODMAN

All right. Let's vote. Post. Motion carries. Thank you. **(Motion carried unanimously.)**

BRAD JERBIC

Thank you. And I would for the record, the ACLU prepared some written statements. They asked that it be filed with the Clerk and made part of the record.

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MAYOR GOODMAN

That's discretionary on my part?

BRAD JERBIC

Probably.

MAYOR GOODMAN

No, it's in the record.

(END OF DISCUSSION)

/sw; cv