

CITY COUNCIL MEETING OF
April 4, 2007
VERBATIM TRANSCRIPT ITEM 53

Discussion and possible action regarding litigation related to the FAA right hand turn at McCarran Airport (City of Las Vegas, Nevada, et al. v. United States Department of Transportation, et al.) All Wards

Appearance List:

OSCAR GOODMAN, Mayor

STEVE WOLFSON, Councilman

BRAD JERBIC, City Attorney

BEVERLY BRIDGES, Acting City Clerk

TOM McGOWAN, Las Vegas resident

GARY REESE, Councilman

LOIS TARKANIAN, Councilwoman

TED RUSSELL, Las Vegas resident

17 minutes

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MAYOR GOODMAN

All right. Fifty-three is discussion and possible action regarding litigation related to the FAA right hand turn at McCarran Airport, City of Las Vegas, Nevada, et al. versus United States Department of Transportation, pertaining to all Wards. Mr. Jerbic, lets make it brief because I, Ill be frank with you. This morning, Councilman Wolfson had a discussion with me. He is desirous of having our constituents give us their input because we are at a crossroads now as to whether or not were going to proceed with the litigation. Weve talked to Ms. Litchmann who is our attorney. Shes advised us as to the chances of success. We know where we stand as far as the legal proceedings are concerned and he felt, and Im gonna let him go into this, of course. But he felt that itd be a good idea to move to abey it for two weeks and to have the community come forward and give us their input as to whether or not they feel we should proceed, based on the expenditure of taxpayer monies, as compared to our chances of success. And, before you start maybe, do you want to say anything further, Councilman, at this time?

COUNCILMAN WOLFSON

Well, thank you, Mayor Goodman. I think you said it best. I think that this is a turning point. I think this Council needs to make a decision as a whole body, as to whether or not we wanna continue to spend the funds to further promote this litigation. But before we make an important decision, I think we should receive input from all of our constituents, not just mine. Because I think its been commonly recognized that this right turn affects many, many Wards, not just my Ward. Ive received many, many emails, hundreds of contacts, whether it be email, whether it be telephone communication. My liaison, Audrey, spends two hours a day speaking with constituents. But in order to give our constituents a full and fair opportunity to be heard, my suggestion was we abey this for two weeks so that we can allow them to come to Council and speak to us directly, not just my constituents, all constituents, because this affects all of us. So that would be my proposal. I would ask before we make the motion that perhaps Mr. Jerbic you give as us a, an update as to where we stand at this point, with your permission.

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MAYOR GOODMAN

Please. Certainly. Yes, Mr. Jerbic.

BRAD JERBIC

Ill be happy to, Your Honor. Members of Council, since our last meeting, as you know, the right-hand turn went into effect, literally, one day before your last City Council meeting. Since then, my office has experienced much the same as Councilman Wolfson's office, lot of emails from people, lot of complaints from constituents. Early on there was a complaint that the FAA phone numbers that we had given out, that you had given out, Your Honor, at the press conference, were not operating and people were not accepting calls. Ive called both numbers myself. It may be that their voicemail box got full of complaints, but those numbers are operational. Theres a discouraging comment at the very end of the pre-recorded message that theyve left, saying something to the effect of by the way, the right hand turn is final action and the comment period is closed. People who listen to that recording should not mistake that as saying, Dont make a comment. You need to make comments.

Let me just read briefly from our consultant George Williams with Williams Aviation, who sent us a letter a couple of days ago where he has concluded that the implementation of the right hand turn at McCarran International Airport has resulted in significant delays since it was implemented. He says air traffic delays have increased significantly. North Las Vegas departures have increased significantly. Theres more delays at the North Las Vegas Airport. They have to now coordinate with McCarran for when these light aircraft take off. Currently they are spacing the aircraft about eight miles apart before allowing another plane to make a right hand turn. What that is doing is its increasing delays, time on the runway and he says that during a 60 day evaluation period, now Ill read this directly. When the 60 day evaluation period is over, the departures will be allowed to depart with the minimum in-trail spacing of three nautical miles. The way I read that and based on my conversations with George is that at the end of this evaluation period, which the FAA says there is no evaluation period, our consultant says there is. At the end of this evaluation period, theres gonna be more right hand turns with fewer, less space between, so you expect more planes and more noise. That is the update that I have for you right now. If we decide to go forward with the lawsuit, we can discuss it at the next meeting. The Citys brief is due May 31st and the end of the briefing schedule has us turning in our reply brief sometime in early August.

MAYOR GOODMAN

All right. Thank you. I think, if the Councilmans motion is granted, I think we should advise the public that I did have a conversation with Ms. Litchmann who is our lawyer because I think its important that when they come to address us, that they have this background in mind, that the chances. The way, and the way she explained it was, her desire at the inception of the action was to get the case in a posture where the FAA would begin to speak to the City of Las Vegas and try to resolve the issue, short of a total victory of stopping the right hand turn, but working out something that everybody could live with. That did not take place. And the FAA went to the Ninth Circuit Court of Appeals which is the court of original jurisdiction in issues like this and sought, we sought preliminary injunction against the FAA in the Ninth Circuit Court of Appeals. And they denied that. That was not something that would surprise anybody whos a lawyer that, very, very difficult to get that on. And there was no expectation that we would be successful other than on a wish and a prayer. However, we hoped that during those proceedings we would be able to get involved in a dialogue and try to resolve this and that did not take place. I asked her pretty point-blank what our chances of success would be because now were talking about a total win. Were not talking about a resolution. Were trying to ease the situation. The chances for a total win to stop the right hand turn, she estimated was between, at the very best, 15 to 20 percent. So the public should know that and the expenditure, in order to seek that potential, on a 15 to 20 percent basis, probably will be what we authorized, initially. That was, I think \$327,000, all told, which included the

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expert that Mr. Jerbic made reference to, that's Mr. Williams as well as all the work which would be necessary to get the brief on file and to be prepared to argue the case before the Circuit. And I think the public has to know that, in anticipation of addressing us with their desires.

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COUNCILMAN WOLFSON
Mayor Goodman.

MAYOR GOODMAN
Yes.

COUNCILMAN WOLFSON
If you dont mind.

MAYOR GOODMAN
Not at all.

COUNCILMAN WOLFSON
Mr. Jerbic, a question. Does Ms. Litchmann, our legal counsel, thats out of California, does she communicate with Mr. Williams on a regular basis?

BRAD JERBIC
Absolutely.

COUNCILMAN WOLFSON
Are they working together on this?

BRAD JERBIC
The three of us coordinate regularly. And her office is in regular contact with Mr. Williams.

COUNCILMAN WOLFSON
Weve heard from Ms. Litchmann. Shes certainly appeared before us at Council. Weve had some conversations with her telephonically, but maybe it would be prudent to invite Mr. Williams to appear at our next meeting. Im gonna leave that up to you, with your permission, Mayor Goodman, up to you, Mr. Jerbic

MAYOR GOODMAN
Thats fine.

COUNCILMAN WOLFSON
But it might be insightful. Hes our expert. Hes the one that our lawyers relying on for data, so perhaps Mr. Williams could appear at our next meeting. And then, what Id like to do is suggest that we have a time certain for this matter

MAYOR GOODMAN
All right.

COUNCILMAN WOLFSON
Because there may be a number of persons that wanna come and speak and

MAYOR GOODMAN
Time certians dont mean much, but well, lets have a time certain of 11:30. Its a morning matter. And well just go as long as we have to go.

COUNCILMAN WOLFSON
Okay and then, fine

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MAYOR GOODMAN

Yes, Mrs. Bridges.

BEVERLY BRIDGES

May I clarify? Do you want a time certain, which means when you reach that time

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MAYOR GOODMAN

Yes

BEVERLY BRIDGES

the meeting changes

MAYOR GOODMAN

we will call

BEVERLY BRIDGES

Or just not to be heard before.

MAYOR GOODMAN

No. We will call the matter at that time.

BEVERLY BRIDGES

Okay. Thank you.

COUNCILMAN WOLFSON

And then finally, Mayor, thank you, is that I appreciate your comments about what Ms. Litchmann said and I think our public needs to know what our lawyer is telling us on our success chances. But this is going to be the opportunity for members of our community to come and speak directly with this Council on both sides of this issue, whether we should or should not continue to spend money, so Im going to invite people to attend this meeting.

MAYOR GOODMAN

Certainly. Did you wanna be heard?

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TOM McGOWAN

(inaudible) Tom McGowan, Las Vegas resident. This is not a token sale, but it is very important for you to understand that there are several factors of this entire issue, several elements that have not been included in the broad range of expression and youre getting too focused on a very narrow aperture. You make it look as though its the City versus the FAA. That aint the case at all. The real culprits are not here. I think you know who Im talking about. Ill give you a clue. Who owns and controls the airport? Dont answer all at once. And where are they? The greatest pollution of air quality is on the ground at the airport. You said taxi. And you dont need, the taxi cabs are over here. Youre talking about aircraft taxiing. That is the greatest pollution. There is more pollution from that than there is in all the vehicles in Clark County in a single day, added up. The greatest danger is on the ground, again taxiways, not in the air. And the right turns are a given point, are gonna be the FAA. I forgot to mention something. In what volume of flights, do you think 200 is the limit? Not when you got the amount of people coming here from all over the world. Youve got a lot, with three or four or 500 flights a day on the right turn, but nobody said anything about capping it. I didnt hear any of you say that. Oh, yes, there are, theres a room for discussion here. The thing I wanna point out, most of all, you were told previously there is a viable alternative, any time youre ready. You know the number to call.

COUNCILMAN WOLFSON

Mayor Goodman, please. Mr. McGowan makes a good point, in that, and Tom, if you dont mind, Congressman, Congresswoman Shelley Berkley was very involved in the beginning. And Im sure shes sensitive to this issue, but we have been asked for the last few weeks by our constituents in emails, and the phone calls and the et cetera, what can we do, what else can we do and weve suggested that they contact their other representatives at all levels. And I know our constituents have been doing so and Im going to encourage them to continue to do so.

MAYOR GOODMAN

Okay. On reflection, Im going to ask Mrs. Bridges to set a four oclock time certain.

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COUNCILMAN WOLFSON

I was gonna suggest that.

MAYOR GOODMAN

Four oclock time certain and, you know, yes, Memphis Barbecue in the back.

COUNCILMAN REESE

We got Chicago Joes for lunch today.

COUNCILWOMAN TARKANIAN

Mr. Mayor.

MAYOR GOODMAN

Yes.

COUNCILWOMAN TARKANIAN

I would just like to add, and every time this comes up, I add it. But it doesnt seem to be taking place in the thoughts of people or the media

MAYOR GOODMAN

The safety issue.

COUNCILWOMAN TARKANIAN

The safety issue, yes. And also that the safety issue and the noise issue are not just what the media calls the affluent Summerlin area. Its very much in a non-affluent area in my Ward, not far from where weve had the crashes from North Las Vegas Airport. But also from people that are not whiners, these are people who have been beset upon by the widening of the freeway and the noise of the freeway coming, and now we have, and I saw this as I walked in campaigning. The noise level in their yards is absolutely atrocious and its far above 60 decibel conversational speech. Its something that I wish people would understand, its not trying to be portrayed, rich people who are complaining about noise. Its really some people who are not very rich at all who have not complained a whole lot, but who are being affected tremendously by this as well as they have been by the freeway noise. I wanna emphasize that for the people in Ward 1.

COUNCILMAN WOLFSON

Mayor Goodman

MAYOR GOODMAN

Thank you.

COUNCILMAN WOLFSON

Thank you one more time.

MAYOR GOODMAN

Yes.

COUNCILMAN WOLFSON

Councilwoman, youre exactly right. Youre absolutely right and I appreciate your comments. We can save this for next time, but heres just an example of the many emails Ive received from persons all over the City and were talking about many, many issues. Safety is one of them and Im sure were gonna hear a lot about it at our next meeting.

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COUNCILWOMAN TARKANIAN
But Mister

MAYOR GOODMAN
Yes.

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COUNCILWOMAN TARKANIAN

Mr. Mayor

MAYOR GOODMAN

Yeah.

COUNCILWOMAN TARKANIAN

If I could, you remember when we went and made our visit at McCarran Airport

MAYOR GOODMAN

Yes.

COUNCILWOMAN TARKANIAN

And what was the impression that we had? This was something that really, the idea of reinstituting this over our area came from McCarran.

MAYOR GOODMAN

No question.

COUNCILWOMAN TARKANIAN

Its, it came from McCarran and they have been the ones who have pushed it and who really, from the very beginning, indicated to us that that was what they were going to get.

MAYOR GOODMAN

Absolutely.

COUNCILWOMAN TARKANIAN

And to me thats a shame, that McCarran whos representing citizens in this area are putting this on them the way they are.

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MAYOR GOODMAN

Your observation was absolutely correct. Yes, sir. Did you wanna be heard?

TED RUSSELL

Yes, sir. Good afternoon, Your Honor, Council. My name is Ted Russell, a citizen of Las Vegas. My take on this is necessarily subjective. Looking at the big picture, as far as the billboards, Carson City, I just believe that a number is being done on us. I understand the comments of Councilwoman Tarkanian as respects to McCarran, but also I believe that the feds and the FAA are doing a number on us. One of my great delights is to take a bus down the SST and watch the airlines take off, watch the planes take off because one of the greatest devices for world peace is international travel. I noticed that the planes are not taking off as quickly as they used to. I, and I also understand that it is throughout the valley. Everybody is involved. Im very encouraged by the idea that Mr. Williams may be here. As a citizen I just would like to see more hard figures and have a sense that, of the metrics that are harder than they are right now. And as I say, this is, to me, the Carson City, the billboards is outrageous. The FAA and perhaps McCarrans part in it is outrageous. And we should fight. Thank you.

MAYOR GOODMAN

Thank you. All right. May I have a motion, please.

COUNCILMAN WOLFSON

Sure.

MAYOR GOODMAN

Mayor Pro Tem.

COUNCILMAN WOLFSON

Oh, Im sorry.

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COUNCILMAN REESE

Go ahead.

MAYOR GOODMAN

Okay.

COUNCILMAN REESE

(inaudible)

COUNCILMAN WOLFSON

Thank you, Mayor. **My motion would be to abey this item for two weeks to our next meeting on April**

BEVERLY BRIDGES

18th.

COUNCILMAN WOLFSON

18th with a time certain at four p.m.

MAYOR GOODMAN

Very good. Lets vote, please. Post. **(Motion carried unanimously.)** Motion carries. Thank you.

(END OF DISCUSSION)

/cv; lc