

CITY COUNCIL MEETING OF
January 16, 2008
VERBATIM TRANSCRIPT – ITEM 43

1 **Hearing, discussion and possible action regarding complaint seeking disciplinary action**
2 **against Veterans of Foreign Wars Post No. 10057, 1905 North H Street, Las Vegas, Clark**
3 **County, Nevada, for violations of the Las Vegas Municipal Code – Ward 5 (Barlow)**

4

5 **Appearance List:**

6 OSCAR GOODMAN, Mayor

7 BRAD JERBIC, City Attorney

8 BILL HENRY, Deputy City Attorney

9 ALBERT YOUNG, Canteen Manager, Veterans of Foreign Wars Post No. 10057

10 BEVERLY BRIDGES, City Clerk

11 RICKI Y. BARLOW, Councilman

12 UNIDENTIFIED MALE SPEAKER

13 LARRY BROWN, Councilman

14

15 16 minutes

16

17 Typed by: Carmel Viado

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19 **MAYOR GOODMAN**

20 My watch shows that it's after 11 a.m. and we have a matter, Number 43, which was not to be
21 heard before 11 a.m. Hearing, discussion and possible action regarding complaint seeking
22 disciplinary action against Veterans of Foreign Wars Post No. 10057, 1905 North H Street in Las
23 Vegas, Clark County, Nevada, for violations of the Las Vegas Municipal Code. This is in Ward
24 5.

25
26 **BRAD JERBIC**

27 Your Honor, before Mr. Henry speaks, I'd like to make a bit of a record here. Yesterday, I'm
28 sorry. Mr. Henry wants to make a record.

29
30 **BILL HENRY**

31 Pardon me, Counsel.

32
33 **BRAD JERBIC**

34 Go ahead.

35
36 **BILL HENRY**

37 Pardon me, Counsel, but if I might, Your Honor, the law requires that before the proceedings can
38 begin, I need to lodge with the Clerk proof of service of notice of today's hearing. And so I'll do
39 that.

40
41 **MAYOR GOODMAN**

42 Okay. All right. The Clerk has received that. Who received service?

43
44 **BILL HENRY**

45 Service was received by the resident agent and by the manager.

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46 **MAYOR GOODMAN**

47 All right. Can we have names, please, for the record.

48

49 **BILL HENRY**

50 Yes. Could I have those back, please? Claude Brown at 1320 West Monroe Avenue and Albert
51 Young, 1905 North H Street.

52

53 **MAYOR GOODMAN**

54 All right.

55

56 **BILL HENRY**

57 The former being the resident agent according to the Secretary of State's database.

58

59 **MAYOR GOODMAN**

60 All right. And when was the service made upon both of those gentlemen?

61

62 **BILL HENRY**

63 Each of them was served December 7th with your December 5th order and notice of hearing.

64

65 **MAYOR GOODMAN**

66 Very good. Thank you. All right. Mr. Jerbic, did you wanna be heard?

67

68 **BRAD JERBIC**

69 Very briefly, Your Honor. Yesterday, this came to my attention, that Attorney Rex Bell was
70 retained by the Veterans of Foreign War to represent them at this hearing. I received a call from
71 Mr. Bell and because I was in meetings all day yesterday, I wasn't able to return it until about 5
72 o'clock last night. Mr. Bell told me that he had a funeral to attend today, that he had been
73 retained and he asked for a short continuance in order to represent the VFW at today's hearing. I
74 told him that I would make that representation to the Council and it was a Council decision.

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75 Because Mr. Henry was in arguments before the 9th Circuit yesterday, I wasn't able to speak with
76 him until this morning. When I told Mr. Henry of Mr. Bell's request, Mr. Henry brought to my
77 attention the fact that this complaint has got a 60-day window in which it has to be heard. That
78 is jurisdictional. If we continue this to another meeting for Mr. Bell to be present, this complaint
79 will fail for jurisdictional reasons and we'll have to re-file, re-serve and restart the process. With
80 that record made, I made no promises to Mr. Bell as to what this Council would do. I told him I
81 would pass it on and that I did not have an objection to it if the Council did not. But at the same
82 time, I did not know yesterday when I spoke to him that we were within the 60-day window and
83 we could not continue past this particular hearing date. With that, I submit it to the Council and
84 if Mr. Henry has anything to add, this is a good time to do it.

85

86 **BILL HENRY**

87 I'd like to augment the record, briefly.

88

89 **MAYOR GOODMAN**

90 Well, I – I'd like to, before there's any augmentation, I wanna speak on behalf of Councilman
91 Barlow. I – went to Councilman Barlow's office this morning and asked him whether or not any
92 requests had been made concerning this matter to him because he is the Councilman for the
93 particular Ward where the property is located. He said he hadn't heard from anybody. And I
94 said, that surprised me a little bit because I had heard that counsel had been retained for the Post
95 and was going to be seeking a continuance. He said he didn't hear a word and he's ready to go
96 forward. So I felt that I should put that on the record.

97

98 **BILL HENRY**

99 If I might, Mayor, bearing in mind that at least once in the litigation history of the City, a district
100 judge has found that we didn't have a sufficient record for denying a continuance, I'd like to
101 augment the record that, pursuant to law, this matter was brought before the Council in the first
102 instance on December 5th, two thousand and seven, on an agenda item asking that you approve
103 the disciplinary complaint and set the matter for hearing. Also pursuant to law, notice of those

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104 proceedings were given. At that hearing, I believe Mr. Young appeared. And the Council, on
105 December 5th, did approve the complaint and set the matter for hearing today. On December 7th,
106 the order approving complaint and notice of hearing was served on the resident agent and Mr.
107 Young.

108 And I would like to read relevantly from the second page of that order. The hearing will be upon
109 the charges in the complaint for disciplinary action which has been served upon you. You may
110 be present at the hearing and you may be represented by a lawyer. You may present any relevant
111 evidence you have and you will be given full opportunity to cross-examine all witnesses
112 testifying against you. You are further notified that within 20 days after service of the complaint
113 for disciplinary action, but not later than five days before the hearing date, you must file with the
114 City Clerk and serve a copy upon the City Attorney of your answer of the charges made in the
115 complaint for disciplinary action and set forth any affirmative offense, defenses you intend raise.
116 So, pursuant to law, they would have had to answer the complaint by the 27th. They did answer
117 the complaint, but they answered it on January 10th, some 13 days late.

118 The consequence of having failed to answer in a timely fashion is set forth in our Municipal
119 Code at 6.88.080 which I, I've put copies of it before each one of you. You know, I'm sorry,
120 but, if I can have your indulgence for just a moment, please.

121

122 **MAYOR GOODMAN**

123 Yeah, because what you put in front of me doesn't have any of the consequences.

124

125 **BILL HENRY**

126 Yeah, you're – correct. What I should have put, again, before you, and I'm sorry, I didn't, is
127 6.88.100. I'll read it to you. Failure to timely file his answer or failure of a respondent or his
128 counsel to appear at the hearing shall constitute an admission of all matters and facts contained
129 in the complaint filed with respect to such respondent. In such cases, the City Council may take
130 action based upon such admission or upon any other evidence. So –

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131 **MAYOR GOODMAN**

132 Let me ask you this, we don't have a copy of the answer or the response. It's not, hasn't been
133 made available to us. Could I see that, please?

134

135 **BILL HENRY**

136 Yes.

137

138 **MAYOR GOODMAN**

139 Thank you.

140

141 **BILL HENRY**

142 I went with Mr. Young and witnessed him serving it on the City Clerk on the same date.

143

144 **MAYOR GOODMAN**

145 All right. Well, apparently this is a response which was filed by Albert Young, Canteen
146 Manager for the Veterans of Foreign Wars for Post Number ten, 10057. There, it was received
147 January the 10th as was represented by Counsel. Could you tell me, first identify yourself.

148

149 **ALBERT YOUNG**

150 Albert Young.

151

152 **MAYOR GOODMAN**

153 Mr. Young, why – wasn't this served within the 20 days? Do you have a – a reason for it?

154

155 **ALBERT YOUNG**

156 Well, it wasn't unclear. It was not clear. We didn't have counsel at the time that we served it, so
157 we did the best we could at the time.

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158 **MAYOR GOODMAN**

159 Let me ask – the City Attorney. Even though it's in the mandatory, that they shall do certain
160 things, for good cause shown, I – could allow them to file this on a late basis, could I not?

161

162 **BRAD JERBIC**

163 That, there is precedent for this. I – do believe the law requires that they file by a particular date,
164 but we've had situations where people have not filed at all and this Council's decided to have a
165 hearing in spite of that, so there is precedent for that, Your Honor.

166

167 **MAYOR GOODMAN**

168 All right. Well, I think – that based on all the equities here, I will receive this, I think it's
169 important, however, Mr. Henry, that the Council will receive a copy of this in anticipation of
170 what we're going to be doing today. Could we have copies made of this, please?

171

172 **BEVERLY BRIDGES**

173 It's in your backup, Sir, in the green copy.

174

175 **MAYOR GOODMAN**

176 In the back here, this is the answer that we're referring to? All right. Fine. All right, we'll, let's
177 make this part of the record as it was. And let me hear, Mr. Young, as far as the request for a
178 continuance here. I want you to make your record on that, unless Mr. Henry, you have
179 something you want to add in addition to what you said concerning starting today.

180

181 **BILL HENRY**

182 No. I – would just point out that if we do continue this, if you were to continue it, the next
183 regularly scheduled meeting of the City Council is on the 6th of February which would take you
184 outside the 60 days and you'd lose jurisdiction over the complaint that you've approved.

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185 **MAYOR GOODMAN**

186 Assuming, however, that we could enter into a stipulation extending it or not.

187 **BILL HENRY**

188 I –

189

190 **MAYOR GOODMAN**

191 Or is it jurisdictional?

192

193 **BILL HENRY**

194 I believe it's jurisdictional.

195

196 **MAYOR GOODMAN**

197 All right, then it would require for us setting it for a special hearing prior to the – expiration of
198 the 60 days.

199

200 **BILL HENRY**

201 The problem, yes, but the problem with that is that it would be potentially dangerous because
202 State law requires that notice of hearing be given to the respondent in a particular fashion and
203 that fashion doesn't admit to the respondent being present before you and agreeing that he has
204 notice. It has to be done in writing. And so, if you were to reset it, and I was unable to serve
205 them in writing, then under State law, you wouldn't be able to go forward with this newly set
206 hearing.

207

208 **MAYOR GOODMAN**

209 All right. I understand that. Now, Mr. Young, I'm gonna allow you to tell us why you want to
210 have this continued, then I'm going to turn to Councilman Barlow and have him give me some
211 direction as to what he desires to do and what he will – tell us will have large bearing on what
212 action we're gonna take. Just – the issue of why you would like us to continue this.

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213 **ALBERT YOUNG**

214 Well, the – main issue, we don't have an attorney present. And this is some pretty serious
215 accusations. And we do need someone to speak for us. At the time that we tried to seek
216 attorney, no one want to go against City Hall. We finally found – one at the last moment and
217 here we are.

218

219 **MAYOR GOODMAN**

220 Okay. Well, I want to make the record clear, you're not against City Hall. We're here, at least
221 I'm here, and my Council's here to listen to the facts and then to make a decision based on those
222 facts. I don't have any predetermination one way or the other and want you to know that
223 whatever we're gonna do, it's gonna be done on a level playing field here. But, Councilman
224 Barlow.

225

226 **COUNCILMAN BARLOW**

227 Thank you, Mayor. I, too, wanna make sure that the VFW Post 10057 have due process and
228 have access to an attorney who, in fact, will be able to represent them in the best way possible,
229 so I would like to move forward to allow this to be continued in order to make sure that the VFW
230 Post 10057 have an opportunity to be represented on a level playing field.

231

232 **MAYOR GOODMAN**

233 All right. Thank you, Sir. Assume that Mr. Young agrees to stick around, would you be able to
234 get written notice to him today if we are able to find a date which is agreeable to you, Mr. Henry
235 and Mr. Young, as well as the Council, to have a hearing. Because, I'll tell ya, there are a lot of
236 people out there who may wanna be heard and it may take more than the ordinary amount of
237 time to conduct a hearing with these kind of serious allegations.

238

239 **BILL HENRY**

240 I can do that.

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241 **MAYOR GOODMAN**

242 Can you do that and you'll stick around to get the notice?

243

244 **ALBERT YOUNG**

245 No problem.

246

247 **BILL HENRY**

248 Well, yeah.

249

250 **MAYOR GOODMAN**

251 All right. What days are available, within the 60 day timeframe?

252

253 **BEVERLY BRIDGES**

254 The soonest we can have it posted and noticed for will be the 23rd of January. And you can go
255 all the way up to February 4th.

256

257 **MAYOR GOODMAN**

258 All right the 23rd of January is, that's a week from today. That should give Mr. Bell adequate
259 opportunity to prepare. Metro, do you have a position? That may be.

260

261 **BILL HENRY**

262 Sergeant?

263

264 **UNIDENTIFIED MALE SPEAKER**

265 No. That, that'd be fine with us.

266

267 **MAYOR GOODMAN**

268 All right. Very good. Thank you.

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269 **BILL HENRY**

270 Is that at a time certain?

271

272 **MAYOR GOODMAN**

273 Is that, that is a, that is a Monday?

274

275 **BEVERLY BRIDGES**

276 That's a Wednesday, Sir.

277

278 **BILL HENRY**

279 When?

280

281 **MAYOR GOODMAN**

282 Well, there's been a request by, what is the succeeding Monday?

283

284 **BEVERLY BRIDGES**

285 The 28th.

286

287 **MAYOR GOODMAN**

288 Yeah. For purposes of having the Mayor Pro Tem's schedule, we're gonna set this for the 28th of

289 January at 9 o'clock. Please, after you get the notice from Mr. Henry today, go to Mr. Bell's

290 office, give it to him. There'll be no further extensions, no further continuances. We'll start at 9

291 o'clock on that date. Yes, Councilman Brown.

292

293 **COUNCILMAN BROWN**

294 Your Honor, if I may –

295

296 **MAYOR GOODMAN**

297 Uh-oh.

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298 **COUNCILMAN BROWN**

299 On the 28th, Mayor Pro Tem and I are members of Metro Fiscal Affairs. That meeting begins at
300 8:30 at the County Chambers.

301

302 **MAYOR GOODMAN**

303 Okay. We'll do it at 10 o'clock. Will –

304

305 **COUNCILMAN BROWN**

306 If –

307

308 **MAYOR GOODMAN**

309 Will you be available?

310

311 **COUNCILMAN BROWN**

312 If that's –

313

314 **MAYOR GOODMAN**

315 10 o'clock.

316

317 **ALBERT YOUNG**

318 What, what's wrong with 12:30 on the – Wednesday? I think that was the date that it –

319

320 **MAYOR GOODMAN**

321 Now we're gonna do it on Monday so that the Mayor Pro Tem could be available. He's
322 unavailable on the Wednesday.

323

324 **ALBERT YOUNG**

325 So what –

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326 **MAYOR GOODMAN**

327 The date again, Ms. Bridges.

328

329 **BEVERLY BRIDGES**

330 The 28th.

331

332 **MAYOR GOODMAN**

333 January 28th, 10 o'clock in the morning in these Council Chambers. Mr. Henry, you have a
334 problem with that?

335

336 **BILL HENRY**

337 The Clerk asked for advice that I thought it was better put to Mr. Jerbic.

338

339 **BEVERLY BRIDGES**

340 Are we recessing this item or are we going to call a Special Council meeting?

341

342 **MAYOR GOODMAN**

343 I would like to recess it, I would, to that time.

344

345 **BEVERLY BRIDGES**

346 Okay.

347

348 **BRAD JERBIC**

349 Thank you.

350

351 **MAYOR GOODMAN**

352 If that's agreeable with Mr. Henry.

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353 **BILL HENRY**

354 That's fine.

355

356 **BRAD JERBIC**

357 That's fine.

358

359 **MAYOR GOODMAN**

360 Is that consistent with your advice, Mr. Jerbic?

361

362 **BRAD JERBIC**

363 That's fine. I think what we have to just keep track of this so that at the end of the day when
364 we're done with the zoning calendar, that we don't adjourn, we recess to a time certain, 10
365 o'clock, Wednesday morning.

366

367 **MAYOR GOODMAN**

368 Okay. That's what we're gonna do. Now, Mister, that's not, Monday morning. Let's not be
369 confused. Let's get the date again.

370

371 **BEVERLY BRIDGES**

372 January the 28th.

373

374 **MAYOR GOODMAN**

375 January 28th, 10 o'clock in the morning, right here. If Mr. Bell is unavailable, we're starting
376 without him. If you need another attorney, we're not gonna give him any more time. So I would
377 suggest because I know Mr. Bell's an honorable man, for you to tell him that the Mayor and the
378 Council are very serious, that it will take place on that day.

379

380 **ALBERT YOUNG**

381 No problem.

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382 **MAYOR GOODMAN**

383 Very good.

384

385 **BILL HENRY**

386 Mayor, would you repeat and direct Mr. Young to set here in the presence of the Council –

387

388 **MAYOR GOODMAN**

389 He's gonna do that, he – he's not gonna – live –

390

391 **BILL HENRY**

392 Okay, (inaudible) –

393

394 **MAYOR GOODMAN**

395 He's – not leaving. He's gonna follow you up to your office, Mr. Henry.

396

397 **ALBERT YOUNG**

398 (inaudible)

399

400 **MAYOR GOODMAN**

401 He's gonna be all over ya like –

402

403 **BILL HENRY**

404 I'd rather – have him stay here and I'll go up to my office, prepare a document –

405

406 **MAYOR GOODMAN**

407 All right. Fine. He'll stay here.

408

409 **BILL HENRY**

410 Someone will come down and serve him.

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411 **MAYOR GOODMAN**

412 He'll stay here. We may even –

413

414 **ALBERT YOUNG**

415 (inaudible)

416

417 **MAYOR GOODMAN**

418 – bring him some lunch from that new restaurant we – had this morning. Okay. All right.

419 Councilman Barlow, may I have your motion, please.

420

421 **COUNCILMAN BARLOW**

422 Yes, Mayor. I would like to move to, what – would the motion be, as far as recess or continue
423 the item –

424

425 **MAYOR GOODMAN**

426 Recess, move to recess this matter until January 28th –

427

428 **COUNCILMAN BARLOW**

429 January 28th –

430

431 **MAYOR GOODMAN**

432 – at 10 a.m.

433

434 **COUNCILMAN BARLOW**

435 Okay. **I would like to move to – recess this item until January 28th, 10 a.m.**

436

437 **MAYOR GOODMAN**

438 All right. That's the motion. Let's vote, please. Post. **(Motion carried UNANIMOUSLY.)**

439 Motion carries. We'll see you back here at that time. Very good. Stick around.

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440 **ALBERT YOUNG**

441 I'll be right here. No problem.

442

443 **MAYOR GOODMAN**

444 Good. Very good. And have your witnesses all ready and ready to go. And what I may, would

445 suggest is this, please show the answer, your – response that you filed on January 10th –

446

447 **ALBERT YOUNG**

448 Right.

449

450 **MAYOR GOODMAN**

451 give that to Mr. Bell –

452

453 **ALBERT YOUNG**

454 He has a copy of it.

455

456 **MAYOR GOODMAN**

457 Okay. Make sure that he complies with our law so that we won't have any issues when we get

458 here of a technical nature and we'll be able to go right to the heart of the matter.

459

460 **ALBERT YOUNG**

461 Okay.

462

463 **MAYOR GOODMAN**

464 Okay.

465

466

467 **ALBERT YOUNG**

468 No problem.

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469 **MAYOR GOODMAN**

470 All right. Very good. We're in recess until 1 o'clock this afternoon.

471

472 **ALBERT YOUNG**

473 Okay.

474 **(END OF DISCUSSION)**

475 /cv; sc