



Las Vegas

Agenda Item No.: 46.

AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: MARCH 19, 2008

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

Discussion and possible action regarding a complaint seeking disciplinary action against Gastroenterology Center of Nevada, 700 Shadow Lane, Las Vegas, Clark County, Nevada, and Endoscopy Center of Southern Nevada, LLC, 700 Shadow Lane, Las Vegas, Clark County, Nevada, for violation of the Las Vegas Municipal Code - Ward 5 (Barlow)

Fiscal Impact

No Impact Augmentation Required
 Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Endoscopy Center of Southern Nevada, LLC formerly held Medical Clinic License No. C14-367-3-107022. Gastroenterology Center of Nevada, at the same location, holds Medical Clinic License No. C14-00266-6-09134. The listed principals, with one exception, are the same for each business. The Complaint for Disciplinary Action submitted alleges that the actual business activity at 700 Shadow Lane constitutes a public or private nuisance, as it is being conducted in an unlawful, illegal, and impermissible manner. Specifically, it is alleged that during the course of colonoscopies, syringes were reused to withdraw anesthesia from single-use containers and thereafter the contents of the single-use containers were shared among two or more patients. In addition, it is alleged that cleaning fluid utilized to clean colon scopes was reused.

RECOMMENDATION:

That the City Council issue the Complaint for Disciplinary Action and set a date and time certain for hearing no later than 60 days from the date of approval of the complaint.

BACKUP DOCUMENTATION:

1. Submitted at meeting Affidavits of Service, Complaint for Disciplinary Action and PowerPoint presentation on Unsafe Injection Practices and Disease Transmission by staff
2. Verbatim Transcript

Motion made by OSCAR B. GOODMAN to Approve the Complaint and setting the hearing for 4/7/2008, not to be heard before 1:00 p.m.

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN, GARY REESE, STEVE WOLFSON, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

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NOTE: As appointed members of the Southern Nevada Health District, COUNCILMEMBERS BARLOW and REESE sought the opinion of CITY ATTORNEY JERBIC on their ability to participate in this matter. CITY ATTORNEY JERBIC advised them that he could not see how being members would disqualify them, unless they possessed information that may affect their opinion against or for the complaint; in which case they should disclose and abstain. Otherwise, disclosure would suffice. COUNCILMAN BARLOW stated that he felt he could make an unbiased judgment. Moreover, COUNCILMAN REESE asserted that he would not have disclosed his position with the Health District had COUNCILMAN BARLOW not done so, because he strongly felt it was his duty, as an appointed member, to use his knowledge and to be inquisitive in this case. CITY ATTORNEY JERBIC rejoined and opined that having a duty on a board as a governmental officer is separate from a contested hearing based on allegations in a complaint. The ultimate issue would be whether he could remain fair during the course of the hearing even if he were to hear things contrary to knowledge gained at the Health District and to the complaint allegations that would support the applicant. COUNCILMAN REESE replied with certainty that he could be fair.

The additional following disclosures were made: CITY ATTORNEY JERBIC'S mother was a patient at the Endoscopy Center during the period of time in question in the complaint; however, his capacity in this matter was only as Board counsel and not presenting facts against/for in this matter. ATTORNEY BROWN, who was made aware, indicated he would confer with MR. WRIGHT, who would be representing the Endoscopy Center, to determine whether there would be a desire for CITY ATTORNEY JERBIC to recuse himself and have another City attorney operate as Board counsel.

COUNCILWOMAN TARKANIAN disclosed that her sister-in-law was a patient, but she underwent testing and the results came back negative. Furthermore, COUNCILMAN ROSS disclosed that his brother, brother-in-law and nephew were patients at the Center. COUNCILMEMBERS TARKANIAN and ROSS asked to be notified if counsel for the applicant had any objections.

Minutes:

A Verbatim Transcript is made a part of the Final Minutes.

APPEARANCES:

OSCAR GOODMAN, Mayor
RICKI Y. BARLOW, Councilman
BRAD JERBIC, City Attorney
GARY REESE, Councilman
STEVEN D. ROSS, Councilman
LOIS TARKANIAN, Councilwoman
BILL HENRY, Senior Litigation Counsel
JAY BROWN, Attorney, representing the applicant
BEVERLY K. BRIDGES, City Clerk
ABRAN VIGIL, Attorney, representing the applicant
LARRY BROWN, Councilman
BRYAN SCOTT, Assistant City Attorney