

CITY COUNCIL MEETING OF
March 19, 2008
VERBATIM TRANSCRIPT – ITEM 46

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

5
6 **Appearance List:**

7 OSCAR GOODMAN, Mayor
8 RICKI Y. BARLOW, Councilman
9 BRAD JERBIC, City Attorney
10 GARY REESE, Councilman
11 STEVEN ROSS, Councilman
12 LOIS TARKANIAN, Councilwoman
13 BILL HENRY, Senior Litigation Counsel
14 JAY BROWN, Attorney for appellant
15 BEVERLY K. BRIDGES, City Clerk
16 ABE VIGIL, Attorney for appellant
17 LARRY BROWN, Councilman
18 BRYAN SCOTT, Assistant City Attorney

19
20 16 minutes

21
22 Typed by: Lean Coleman
23 Proofed by: Deeny Araujo

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24 **MAYOR GOODMAN**

25 All right. The next item is Item 46, discussion and possible action regarding complaint seeking
26 disciplinary action against Gastroenterology Center of Nevada, 700 Shadow Lane, Las Vegas,
27 Clark County, Nevada, and Endoscopy Center of Southern Nevada, LLC at 700 Shadow Lane,
28 for violations of the Las Vegas Municipal Code. This is in Ward 5.

29 Is there anybody here on behalf of the Gastroenterology Center or the Endoscopy Center? Mr.
30 Brown.

31

32 **COUNCILMAN BARLOW**

33 Mayor.

34

35 **MAYOR GOODMAN**

36 Yes.

37

38 **COUNCILMAN BARLOW**

39 As the applicant or their counsel move forward, I have a question for Mr. Jerbic. Mr. Jerbic, I
40 serve as the, a member of the Southern Nevada Health District and wanted to make sure that I'm
41 in compliance with, not only disclosing, but having the opportunity to participate in this section
42 of the meeting, for clarification.

43

44 **BRAD JERBIC**

45 I don't think there's anything, per se, about your being a member of that that would disqualify
46 you. The only question would be: Have you learned of facts that are at issue in this disciplinary
47 proceedings that have already colored your opinion so that you couldn't be fair to the applicant?
48 If it – is the case that you are not in possession of facts and have not formed an opinion that
49 would affect your opinion of this Complaint, then you may proceed. If it is, on the other hand,
50 you know of facts that would affect your opinion, and you have formed one, one way or the
51 other, then you should disclose and abstain. So, the ball's back in your court to let me know
52 which one it is.

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53 **COUNCILMAN BARLOW**

54 I appreciate that. I – believe that under the information that I currently know, I believe that I will
55 be in a position to be judgmental from a (sic) unbiased position.

56

57 **COUNCILMAN REESE**

58 Your Honor.

59

60 **BRAD JERBIC**

61 You're fine.

62

63 **MAYOR GOODMAN**

64 Yes, Mayor Pro Tem.

65

66 **COUNCILMAN REESE**

67 I – also would need to make the same disclosure. I've been on the health board for the last
68 twelve and a half years. I feel like that I am assigned by the Mayor and ratified by my City
69 Council to serve on this Board and anything that I learn at this Board meeting, I should be able to
70 use at this meeting. I – don't feel like there's any conflict at all. I feel like that one job carries
71 over into the other, and if I'm wrong, I'd like, I try to be told about, I wouldn't even disclose the
72 fact I sit on the health board, but Ricki did. I'm going to have to make that disclosure also, but I
73 feel it's my duty to ask questions pertaining to what I've learned at the health board.

74

75 **BRAD JERBIC**

76 The, I think the only question is, and I think you're correct, generally, that simply knowing
77 things from the health board and having the duty to act as a – governmental officer on that board
78 is separate from a contested hearing based on allegations in the Complaint. It, I guess the
79 ultimate question would be: If during the course of the hearing, you were to learn things that
80 you had not learned at the health board, that were contrary to the allegations of the Complaint,
81 that for whatever reason supported the applicant –

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82 **COUNCILMAN REESE**

83 Absolutely. Yes –

84

85 **BRAD JERBIC**

86 – could you –

87

88 **COUNCILMAN REESE**

89 Yes.

90

91 **BRAD JERBIC**

92 – be fair about that? That’s –

93

94 **MAYOR GOODMAN**

95 All right. Very good.

96

97 **BRAD JERBIC**

98 I also have to make a disclosure, Your Honor, and I will put it on the record that I disclosed to
99 members of Council I’ve talked to you individually and to Mr. Brown this morning, that my
100 mother was a patient at the Endoscopic Center (sic) during the period of time in question in the
101 Complaint. I am only acting as Board counsel. I’m not presenting facts for or against the
102 applicant in this. I’ve given Mr. Brown an opportunity to have me step down. He indicated he’s
103 going to talk with Mr. Wright, who is ultimately, I think, gonna be representing the Endoscopy
104 Center (sic). But, any case, I want it on the record, if the counsel or the applicant has any
105 problem with my participation in this, I will be glad to recuse myself and have another attorney
106 from my office operate as Board counsel.

107

108 **MAYOR GOODMAN**

109 All right. Thank you, Mr. Jerbic.

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110 **COUNCILMAN ROSS**

111 And, Your Honor, if you'll hold one second while I just chat with counsel for a minute.

112

113 **MAYOR GOODMAN**

114 Certainly.

115

116 **COUNCILWOMAN TARKANIAN**

117 Mr. – Mayor, as you're holding on there, could I just state that I have a sister-in-law, who also
118 attended the clinic at that time. She's taken the test, and there is no problem, but I just want to
119 disclose that.

120

121 **MAYOR GOODMAN**

122 Thank you very much.

123

124 **COUNCILWOMAN TARKANIAN**

125 And if someone feels I shouldn't be here, I'll recuse myself.

126

127 **MAYOR GOODMAN**

128 Thank you.

129

130 **COUNCILMAN ROSS**

131 And, Your Honor, apparently I must disclose also. Both my brother, my brother-in-law and my
132 nephew were all patients of this center also. So that's –

133

134 **MAYOR GOODMAN**

135 All right.

136

137 **COUNCILMAN ROSS**

138 – for the record.

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139 **MAYOR GOODMAN**

140 So I'm – delighted that the disclosures are being made and if there is any objection to any of
141 these Council members sitting, then we'll hear from Mr. Brown at the appropriate time. Until
142 such time if there is an objection, we'll go forward with the Council sitting as a Body. Mr.
143 Henry.

144

145 **BILL HENRY**

146 Thank you, Mayor and members of the Council. Before we proceed, I'd like to lodge with the
147 Clerk, proof of service of notice of today's proceedings. Having to do with Gastroenterology
148 Center of Nevada and Endoscopy Center of Southern Nevada, both businesses located at 700
149 Shadow Lane, Las Vegas, Clark County, Nevada.

150

151 **MAYOR GOODMAN**

152 Thank you.

153

154 **BILL HENRY**

155 The Disciplinary, proposed Disciplinary Complaint before you recites that on February 29th,
156 administrative action was taken against gas, Gastroenterology Center of Nevada, then referred to
157 as, formerly known as Endoscopy Center of Southern Nevada. So you might wonder why the
158 caption of the Complaint refers to Gastroenterology Center of Nevada and Endoscopy Center of
159 Southern Nevada, and I'd like to explain that.

160 Endoscopy Center of Southern Nevada was first licensed by Business Licensing, October 9th,
161 2002. This license was allowed to lapse for non-payment of fees November 15th, 2007.
162 However, on February 29th, 2008, soon after we served the emergency closure order, someone
163 purporting to be an agent of the licensee came into Financial Services Division and tendered
164 payment to make up the business license fees. It's not my position that having done that and –
165 the payment having been accepted, that – somehow under the laws, the City of Las Vegas, that
166 that renewed their license. But out of an abundance of caution, I chose to charge that entity.

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167 The entity that we believe is licensed is Gastroenterology Center of – Nevada, and they were,
168 they applied for their license February 5th, 2002 and got the license, I believe, on February 13,
169 2002. The gravamen of the proposed Disciplinary Complaint is set forth in the Complaint and
170 also in Exhibit 1 to the Complaint, which is a diagram, which was on the Health District website.
171 And I have that up on my screen; it’s illegible, I apologize. I went through two run-throughs
172 with IT people.

173

174 **MAYOR GOODMAN**

175 All right. Is that made part of the record?

176

177 **BILL HENRY**

178 It is Exhibit 1 –

179

180 **MAYOR GOODMAN**

181 All right. Attached –

182

183 **BILL HENRY**

184 – to the Complaint.

185

186 **MAYOR GOODMAN**

187 Attached to the Complaint. That’s fine. It doesn’t have to be on the screen.

188

189 **BILL HENRY**

190 All right, but I gave you hard copies –

191

192 **MAYOR GOODMAN**

193 We’re fine.

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194 **BILL HENRY**

195 – in any event, what, what’s alleged is that – the licensees, who have common ownership, were
196 engaged in dangerous medical practice. What they were doing is performing principally
197 colonoscopies which –
198

199 **MAYOR GOODMAN**

200 I – appreciate this. Right now, the Complaint, once again, speaks for itself, Mr. Henry. You’ve
201 made copies available to us. I think we’re here today to set a – date for a hearing.

202

203 **BILL HENRY**

204 But you’re also here to approve the Complaint.

205

206 **MAYOR GOODMAN**

207 And approve the Complaint. So I move that we approve the Complaint. Let’s vote on that,
208 please. Post. (Motion carried unanimously) Motion carries. Let’s have a date, has to be heard
209 within 60 days?

210

211 **BILL HENRY**

212 It does.

213

214 **MAYOR GOODMAN**

215 Are you, how soon are you prepared to proceed, Mr. Brown?

216

217 **JAY BROWN**

218 We’d like at least 30, Your Honor.

219

220 **MAYOR GOODMAN**

221 Well, I don’t want to give you 30. I want to get this done. This’ a matter of great moment for –
222 the people of Las Vegas, so –

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223 **JAY BROWN**

224 Whatever –

225

226 **MAYOR GOODMAN**

227 How soon – could you be ready?

228

229 **JAY BROWN**

230 Whatever you want, Your Honor. Keep in mind that before this hearing, even probably after the
231 hearing, but before the hearing, this center is not being open. This address will not be open.

232

233 **MAYOR GOODMAN**

234 I understand that, but I think that the public is going to be entitled to have a full and fair hearing
235 before it on these issues that are a matter of great moment, as far as this community is concerned.

236 And I'd like to get it done as soon as possible. Would 14 days be sufficient?

237

238 **JAY BROWN**

239 Whatever you say, Your Honor. There're several attorneys involved, and that's why I was
240 saying it, but we'll work, you know, we understand –

241

242 **MAYOR GOODMAN**

243 All right –

244

245 **JAY BROWN**

246 – the importance of it.

247

248 **MAYOR GOODMAN**

249 I'd like to do it on a Monday afternoon.

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250 **BEVERLY K. BRIDGES**

251 April 7th.

252

253 **MAYOR GOODMAN**

254 April 7th. Let's see what this note says.

255

256 **COUNCILMAN ROSS**

257 I'm out of town.

258

259 **MAYOR GOODMAN**

260 You're out of town. Would you mind if we –

261

262 **COUNCILMAN ROSS**

263 I'm not available until the 21st.

264

265 **MAYOR GOODMAN**

266 I don't want to wait that long. All right. Well, we'll proceed without, okay, Councilman Ross
267 has a prior commitment but we're gonna proceed without him. April the seventh, we'll set it for
268 a time certain of 1:30 in the afternoon. And, Mr. Henry, I'm going to respectfully request that
269 you issue a compulsory process, either in the form of subpoena or a summons, depending on
270 your discretion, commanding the attendance and the testimony of the principals involved in both
271 the Gastroenterology Center of Nevada, as well as the Endoscopy Center of Southern Nevada, to
272 be present at that time and at this place, in the City Council Chambers.

273 I'm going to ask you to prepare a compulsory process to the nurses, nursing licensure board, so
274 that we can find out what happened with the nurses who, I've been advised, have been
275 suspended or disbarred or whatever happens to a nurse when they lose their license.

276 I'd like you to have Dr. Sands from the Health District, his assistant, what is the gentleman's
277 name. (Inaudible) Brian Labus. I'd like him to be here. I'd like you to ask Dr. Christensen

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278 from the health board to be here and any other witnesses that you believe are pertinent so that we
279 can have a full and complete resolution of this at that time.

280

281 **BILL HENRY**

282 Very well.

283

284 **MAYOR GOODMAN**

285 Thank you very much. All right. Anything further, gentleman?

286

287 **JAY BROWN**

288 Just for the record, this gentleman with me is (inaudible) Abe Vigil, an attorney here in Las
289 Vegas is working on this as well. Just to make a note of that.

290

291 **MAYOR GOODMAN**

292 Okay. Welcome to City Council

293

294 **ABE VIGIL**

295 Thank you very much.

296

297 **MAYOR GOODMAN**

298 Very good. Then we'll see you on the seventh, one thirty – on the –

299

300 **COUNCILMAN BROWN**

301 (Inaudible).

302

303 **MAYOR GOODMAN**

304 Yes, does anybody have a problem with one o'clock on the seventh?

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305 **JAY BROWN**

306 One thirty, you said.

307

308 **MAYOR GOODMAN**

309 One o'clock is fine, one o'clock, please.

310

311 **JAY BROWN**

312 Okay.

313

314 **MAYOR GOODMAN**

315 One o'clock and that's what the subpoena or the summons commanding their – presence and
316 their testimony will reflect. Thank you.

317

318 **JAY BROWN**

319 Thank you.

320

321 **COUNCILWOMAN TARKANIAN**

322 Mr. Mayor.

323

324 **MAYOR GOODMAN**

325 Yes.

326

327 **COUNCILWOMAN TARKANIAN**

328 I just want to tell you about the many comments that have come in, how much I admired the
329 swiftness that you and Mayor Pro Tem acted in handling the situation.

330

331 **MAYOR GOODMAN**

332 Thank you.

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333 **END OF DISCUSSION – RESUMED RELATED DISCUSSION**

334

335 **MAYOR GOODMAN**

336 Mr. Henry. You wanted me to call Item 46?

337

338 **BILL HENRY**

339 Yes, if you'd recall that.

340

341 **MAYOR GOODMAN**

342 All right. Discussion and possible action regarding complaint seeking disciplinary action against
343 Gastroenterology Center of Nevada, 700 Shadow Lane, Las Vegas, Clark County, Nevada, and
344 Endoscopy Center of Southern Nevada, LLC, 700 Shadow Lane, Las Vegas, Clark County,
345 Nevada, for violation of Las Vegas Munic, Municipal Code in Ward 5.

346

347 **BILL HENRY**

348 Thank you, Mayor. After the Council approved the Complaint and set the matter for hearing, I
349 neglected to take the ministerial act of asking that the record reflect that I lodged the original of
350 the Complaint with the Clerk. And so I'm asking to do that at this time.

351

352 **MAYOR GOODMAN**

353 You had lodged it though, had you not?

354

355 **BILL HENRY**

356 No, not – the original. You all had copies that you voted on.

357

358 **MAYOR GOODMAN**

359 I see. All right. Then what we'll do is we'll accept (inaudible), I think we have to move to
360 reconsider then at this time. All right. May I have a motion for reconsideration, please. All
361 right. Please vote. Post.

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362 **BEVERLY K. BRIDGES**

363 Now we have to vote. I hadn't –

364

365 **MAYOR GOODMAN**

366 Please vote. This is on the reconsideration. Post. (Motion carried unanimously) Motion
367 carries. And the tender is now being made of the original into the record. I'll let the record
368 reflect that the Clerk has received the original and we don't have to vote. We just accept this
369 ministerially (sic). Very good. Would you please call Mr. Brown and advise him that this, in
370 fact, took place.

371

372 **BILL HENRY**

373 I will. No, they don't have to do any of that.

374

375 **MAYOR GOODMAN**

376 Okay.

377

378 **BILL HENRY**

379 Thank you, Mayor.

380

381 **MAYOR GOODMAN**

382 Thank you. All right. We're now up to –

383

384 **BRYAN SCOTT**

385 I'm – sorry. You rescinded a vote. Do you, they, think they probably need to revote on that.

386

387 **MAYOR GOODMAN**

388 Okay. Then we'll vote to, my motion is to accept the Complaint and we've set –

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389 **BRYAN SCOTT**

390 Oh, I'm sorry – Mayor, didn't you rescind a vote on something –

391

392 **MAYOR GOODMAN**

393 Yes, we did because some genius up here said don't we have to rescind, and I listened to him.

394

395 **BRYAN SCOTT**

396 Yeah. I don't –

397

398 **BILL HENRY**

399 So if you voted to rescind the vote that you took –

400

401 **MAYOR GOODMAN**

402 Right, then we have to vote again.

403

404 **BILL HENRY**

405 – then – you will have to vote again –

406

407 **MAYOR GOODMAN**

408 Right.

409

410 **BILL HENRY**

411 But I don't think you needed to actually to do any of that. You just need to re-open because the

412 way we typically do this is once you vote and approve, then I lodge the original with the Clerk.

413

414 **MAYOR GOODMAN**

415 Okay. We're fine. We rescinded the –

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416 **BRYAN SCOTT**

417 I think you did it for reconsideration.

418

419 **MAYOR GOODMAN**

420 We considered the fact that we've been spending a lot of time on a lot of stuff today. Okay,

421 that's what we rescinded.

422

423 **BRYAN SCOTT**

424 If we could just get this clear, I guess. What was the vote this morning?

425

426 **BILL HENRY**

427 What did you do?

428

429 **BRYAN SCOTT**

430 Beverly.

431

432 **BEVERLY K. BRIDGES**

433 They voted to approve the Complaint and set the date.

434

435 **MAYOR GOODMAN**

436 May I have a **motion approving the Complaint and setting the hearing date for?**

437

438 **BEVERLY K. BRIDGES**

439 April the seventh.

440

441 **MAYOR GOODMAN**

442 **April the seventh at 1:00 p.m.**

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443 **COUNCILMAN REESE**

444 **So moved**, Your Honor.

445

446 **MAYOR GOODMAN**

447 All right. Let's vote on that, please. Post. **(Motion carried unanimously)** Motion carries.

448 Good job, Mr. Henry.

449

450 **BILL HENRY**

451 Thank you, Mayor.

452

453 **MAYOR GOODMAN**

454 You're welcome.

455

(END OF DISCUSSION)

456 /lc;da