

TM / LAS COCL. MTE: [9A WED. 7 MAY, '08 (CACL. CHMB.) (CH: MAY C/G)

Public Comment: -

IN PREFACE: "Tom McGowan, - MR. MAYOR, WILL YOU ALLOW PUBLIC COMMENT BEFORE THE COUNCIL TAKES ACTION ON AGENDA ITEM #59.(?) -

IF 'NO': - "DULY NOTED, ON THE PUBLIC RECORD." (RESUME SEAT) THEN: (SUBMIT PUBLIC COMMENT DURING AGENDA ITEM #19. CITIZENS PARTICIPATION)

IF 'YES': - "THANK YOU." - (PROCEED WITH ORAL PUBLIC COMMENT, AND SUBMIT WRITTEN TEXT FOR INCLUSION IN THE PUBLIC RECORD OF THE MEETING MINUTES.)

AGENDA ITEM #59. TOM MCGOWAN, LAS VEGAS RESIDENT. RETIRED SENIOR; DISABLED AMERICAN VETERAN PATIENT OF THE VA HEALTH CARE SYSTEM, AND VICTIM OF THE ENDOSCOPY CLINICS OWNED AND OPERATED BY DR. DIPAK DESAI. IN MY INDIVIDUAL OPINION AND BELIEF, BASED ON CURRENTLY AVAILABLE PUBLIC PERTINENT INFORMATION:-

1. THE VERBATIM TEXT OF HEREW SUBJECT ITEM #59. IS INTENTIONALLY FALSE, MISLEADING, DECEPTFUL, AND DECEPTIVE, FOR THE FOLLOWING REASONS: ~

(A) IT STATES: - "MONIES (WERE) RECEIVED FROM (THE SUBJECT BUSINESS LICENSEES) IN RETURN FOR ACCEPTANCE (BY THE CITY, OF THE) SURRENDER OF THEIR BUSINESS LICENSES." - BUT, IT MAKES NO MENTION OF THE FACTS THAT: - IN THE DISCIPLINARY HEARING (AGENDA ITEM # ), DURING THE SPECIAL MEETING OF THE CITY COUNCIL ON MONDAY 7 APRIL, '08: -

(1) THE CITY LEGALLY TERMINATED THE SUBJECT BUSINESS LICENSES IN RESPONSE TO COMPLAINTS OF CIVIL VIOLATIONS OF THE CITY ORDINANCE GOVERNING CONDUCT CONSTITUTING A PUBLIC AND/OR PRIVATE NUISANCE BY THE BUSINESS LICENSEES;

AND: ~

(2) THE MONIES RECEIVED (IN THE TOTAL GROSS SUM OF \$500,000?) WERE A LEGALLY IMPOSED FINE, IN ADDITION TO TERMINATION OF THE BUSINESS LICENSES, AND WERE NEITHER A 'PHILANTHROPIC CONTRIBUTION, NOR A 'GIFT' OR 'EMOLUMENT' (IMPLIED AS 'VOLUNTARILY PRESENTED IN APPRECIATION') IN RETURN FOR THE CITY'S ACCEPTANCE OF THEIR (AGAIN, IMPLIED AS 'VOLUNTARY') SURRENDER OF THEIR BUSINESS LICENSES, - (WHICH MOTIVATIONAL SCENARIO, IN THE CLOSEST UNDERSTANDING, WOULD CONSTITUTE AN UNPRECEDENTED COMPOUND OXYMORON), IN THE PUBLIC PERCEPTION.)

(B) IN SUM OF THE HEREINABOVE SECTIONS 1. (A) (1) AND (2): ~

EITHER: ~

(1) THE ACTION TAKEN BY THE CITY COUNCIL DURING THE QUASI-JUDICIAL DISCIPLINARY HEARING IN THE SPECIAL MEETING ON MONDAY 7 APRIL, '08, WAS LEGALLY COMPETENT (BUT OF 'NOLO CONTENDERE' CONTEXT, RESPECTFUL OF THE SUBJECTS' CONSTITUTIONAL RIGHTS GUARANTEED SECURE UNDER THE FIFTH AMENDMENT, AS WELL AS ACCOMODATIVE OF THE SUBJECTS' REFUSAL TO RESPOND TO THE CITY'S (UNENFORCEABLE) SUBPOENA TO APPEAR AT THE OPEN PUBLIC DISCIPLINARY HEARING);

OR: ~

(2) (BY REFERENCE TO THE VERBATIM TEXT OF AGENDA ITEM #59. IN TODAY'S CITY COUNCIL MEETING ON, 7 MAY, '08) - THE SUBJECTS INTENTIONALLY ARE NEITHER EXPRESSLY NOR NOTABLY IMPLIED AS CULPABLE OF ANY WRONGDOING, WHATSOEVER, AND THE AGENDA ITEM IS SOLELY CONCERNED WITH THE PROPOSED USE OF MONIES RECEIVED BY THE CITY IN RETURN FOR THE CITY'S ACCEPTANCE OF THE (AGAIN, IMPLIED AS 'VOLUNTARY') SURRENDER OF THE SUBJECTS' BUSINESS LICENSES, - (AGAIN, A COMPOUND OXYMORON, AND CLEARLY INDICATIVE OF AN APPRECIATIVE 'QUID PRO QUO' EXCHANGE OF MONEY IN RETURN FOR THE CITY'S ACCOMODATIVE SERVICES OF BENEFIT TO THE SUBJECTS;

WED.

Submitted at City Council

(WHILE ...)

Date 5/7/2008 Item #59

(cont'd) ~

(TM, cont'd)~

WHILE, IN EACH AND BOTH CASES (OF THE CITY COUNCIL ACTIONS TAKEN ON 7 APRIL AND 7 MAY, '08):~

(3) THE CITY COUNCIL GAINS THE <sup>POLITICAL</sup> BENEFIT OF THE APPEARANCE OF (HOWEVER ALBEIT POST-CRITICALLY REACTIVE) RESPONSE TO AND REMEDIAL ADDRESS OF THE ENDOSCOPY CLINICS PUBLIC HEALTH ISSUE WITHIN THE CITY'S JURISDICTION, IN THE PUBLIC PERCEPTION;

AND:~

(A) THE CITY COUNCIL GAINS THE ADDITIONAL POLITICAL BENEFIT OF RECEIPT, FROM THE SUBJECT ENDOSCOPY CLINICS, OF THE TOTAL GROSS SUM OF \$500,000.00 (PURPORTEDLY) PURSUANT TO (PRO RATA'D) DISTRIBUTION TO THE LVMPD (FOR PATIENTS' MEDICAL RECORDS RELATED SERVICES), AND TO THE VICTIMIZED PATIENTS OF THE SUBJECT ENDOSCOPY CLINICS (FOR LOSS, INJURY, AND/OR DAMAGES INCURRED).

2. HOWEVER:~ THE FOLLOWING ADDITIONAL MATERIALLY RELEVANT FACTS ALSO APPLY, BUT WERE NOT MENTIONED OR INCLUDED BY MEMBERS OF THE LAS VEGAS CITY COUNCIL IN ANY OF THE HERETO PERTINENT AGENDA-ITEMIZED PUBLIC MEETINGS, HEARINGS, DISCUSSIONS, AND RESULTANT OFFICIAL ACTIONS OF THE CITY COUNCIL.~ TO WIT:~

(A) PAYMENT FOR THE SERVICES (I.E. THE ANNUAL BUDGET) OF THE LVMPD IS JOINTLY SHARED BY THE CITY OF LAS VEGAS AND THE GOVERNMENT OF CLARK COUNTY; AND THEREAS:~

(1) ANY EXTRA-BUDGETARY COSTS INCURRED BY THE LVMPD, INCLUDING BUT NOT LIMITED TO (E.G.) PATIENTS' MEDICAL RECORDS RELATED SERVICES, PROPERLY SHOULD BE SUBJECT TO A PRIORI OFFICIAL APPROVAL OF AND AUTHORIZATION BY THE SUBJECT GOVERNING BODIES;

(B) THE LVMPD STATED THE (EXTRA-BUDGETARY) COSTS OF HIRING AN OUTSIDE CONSULTANT/PRIVATE CONTRACTOR TO PROVIDE THE HERETO PERTINENT PATIENTS' MEDICAL RECORDS RELATED SERVICES WILL BE (NOT LESS THAN) THE GROSS SUM OF \$400,000.00;

THEREAS, BY ARITHMETIC COMPUTATION:~

(C) THE BALANCE OF MONEY REMAINING FROM THE TOTAL GROSS SUM OF \$500,000.00 RECEIVED BY THE CITY OF LAS VEGAS FROM THE HERETO PERTINENT ENDOSCOPY CLINICS AND (PURPORTEDLY) INTENDED FOR DISTRIBUTION TO THE VICTIMIZED PATIENTS OF THE SUBJECT ENDOSCOPY CLINICS WILL BE (NOT MORE THAN) \$100,000.00;

AND THEREAS, ALSO BY ARITHMETIC COMPUTATION:~

(1) THE AVERAGE PRO-RATA'D SHARE OF SAID REMAINING \$100,000.00 BALANCE 'INTENDED' FOR DISTRIBUTION TO THE (INITIALLY: 40,000; SINCE INCREASED TO) 50,000 VICTIMIZED PATIENTS OF THE SUBJECT ENDOSCOPY CLINICS WILL BE (NOT MORE THAN) \$2.00 PER VICTIMIZED PATIENT, RESPECTIVELY AND INCLUSIVELY;

(D) FURTHERMORE, LEGISLATION ENACTED BY THE STATE OF NEVADA PLACES A STATUTORY ('CAP') LIMIT OF \$350,000.00 ON NON-ECONOMIC INJURY AWARDS FOR VICTIMIZED PATIENTS OF MEDICAL MALPRACTICE; AND FURTHER PROVIDES THAT ANY AND ALL FINANCIAL AWARDS RECEIVED BY VICTIMIZED PATIENTS IN EXCESS OF COURT-ORDERED FINANCIAL AWARDS SHALL BE DEDUCTED FROM THE AMOUNT OF THE COURT-ORDERED AWARD (IF ANY). HENCE:~

(1) THE HERETO PERTINENT AGENDA-ITEMIZED OFFICIAL ACTION BY THE LAS VEGAS CITY COUNCIL ON 7 APRIL AND 7 MAY, '08, IS REASONABLY SUBJECT TO CONSTRUCTION, IN THE PERCEPTION OF THE INTERESTED AND AFFECTED PUBLIC, AS INTENTIONALLY:~

(A) OF FINANCIAL BENEFIT TO THE LVMPD AND THE OUTSIDE CONSULTANT/PRIVATE CONTRACTOR OF HERETO PERTINENT RECORD;

(B) OF BOTH LEGALLY ASSISTIVE AND FINANCIAL BENEFIT TO THE SUBJECT ENDOSCOPIC CLINICS BUSINESS LICENSEES; AND:~

(C) OF POLITICAL BENEFIT TO THE MEMBERS OF THE LAS VEGAS CITY COUNCIL;

BUT:~

(D) OF NO DISCERNIBLE OR SIGNIFICANT BENEFIT WHATSOEVER TO THE VICTIMIZED PATIENTS OF THE SUBJECT ENDOSCOPY CLINICS.

3. THE FOLLOWING ADDITIONAL MATERIALLY RELEVANT FACTS ALSO APPLY, IN TERMS OF HERETO PERTINENT BACKGROUND INFORMATION. ~ TO WHIT:-

(A) TWO (2) OF THE SEATED AND VOTING MEMBERS OF THE LAS VEGAS CITY COUNCIL (MAYOR OSCAR B. GOODMAN AND WARD 2 COUNCILMAN STEVEN WOLFSON) ARE PROFESSIONALLY TRAINED, EXPERIENCED, AND EXPERTISED CRIMINAL DEFENSE ATTORNEYS;

(B) THE CITY ATTORNEY, AND STAFF MEMBERS OF THE OFFICE OF THE CITY ATTORNEY, SERVE AT THE PLEASURE OF THE LAS VEGAS CITY COUNCIL (CHAIRD BY MAYOR OSCAR B. GOODMAN);

(C) THE PRINCIPAL ATTORNEY OF RECORD FOR THE HERETO PERTINENT ENDOSCOPY CLINICS IS: CRIMINAL DEFENSE ATTORNEY JAY BROWN: ~

(1) WHOSE LAW OFFICE IS LOCATED AT 520 So. FOURTH ST., LYNU, ~ (AT THE SAME ADDRESS AND ON THE SAME SECOND FLOOR LEVEL AS THE PROFESSIONAL LAW OFFICE OF CRIMINAL DEFENSE ATTORNEY (AND MAYOR) OSCAR B. GOODMAN); AND: ~

(2) WHO IS A LONG-TIME PERSONAL FRIEND, BUSINESS INVESTMENTS ASSOCIATE, AND PROFESSIONAL (LAW) COLLEAGUE OF CRIMINAL DEFENSE ATTORNEY (AND MAYOR) OSCAR B. GOODMAN; AND: ~

(3) WHO APPEARED AND TESTIFIED IN BEHALF OF HIS SUBJECT ENDOSCOPY CLINICS CLIENTS IN THE SPECIAL MEETING OF AND QUASI-JUDICIAL DISCIPLINARY HEARING BY THE LAS VEGAS CITY COUNCIL ON MONDAY 7 APRIL '08; AND THEREAS: ~ HE ARRIVED: ~

(A) BEARING TWO (2) ALREADY FULLY MADE OUT CHECKS FOR \$250,000.00 EACH, TOTALING THE GROSS SUM OF \$500,000.00, FROM THE SUBJECT ENDOSCOPY CLINICS, PURSUANT TO PRESENTATION AND DELIVERY TO AND ACCEPTANCE BY THE LAS VEGAS CITY COUNCIL, IN (PRIVATELY NEGOTIATED AND PRE-ARRANGED) SETTLEMENT OF THE OFFICIAL TERMINATION (OR 'VOLUNTARY SURRENDER') OF THE SUBJECT BUSINESS LICENSES ISSUE, BUT: ~ HE DID SO: ~

(1) DEVOID OF ANY PRIOR OFFICIAL ACTION IN ANY PRIOR OFFICIAL PUBLIC MEETING OF THE LAS VEGAS CITY COUNCIL PURSUANT TO REQUISITE SPECIFICATION OF THE IMPENDING TERMINATION (OR 'VOLUNTARY SURRENDER') OF THE SUBJECT BUSINESS LICENSES, AND/OR PURSUANT TO REQUISITE SPECIFICATION OF THE EXACT AMOUNT OF THE IMPENDING CIVIL FINE (OR 'VOLUNTARY FINANCIAL CONTRIBUTION') NECESSARY TO EFFECTUATE THE FINAL OFFICIAL SETTLEMENT OF THE (PRIVATELY NEGOTIATED, PRE-ARRANGED, AND AGREED-UPON) TERMS ARRIVED AT BY AND BETWEEN THE CITY OF LAS VEGAS AND THE SUBJECT ENDOSCOPY CLINIC BUSINESS LICENSEES.

AND, OF UTMOST SIGNIFICANCE IN TERMS OF HERETO PERTINENT ADDITIONAL MATERIALLY RELEVANT FACTS: ~

(D) THE HERETO PERTINENT PUBLIC-EXCLUDED, PRIVATE MEETINGS, COMMUNICATIONS, AND NEGOTIATIONS BY AND BETWEEN THE MEMBERS OF THE LAS VEGAS CITY COUNCIL, KEY CITY EMPLOYEES/MEMBERS OF THE DEPARTMENTAL INFRASTRUCTURE, AND CITY ATTORNEY STAFF ~ AND (THEIR 'COUNTERPARTS') ~ THE HEREIN SUBJECT ENDOSCOPY CLINICS BUSINESS LICENSEES, THEIR PROFESSIONAL ASSOCIATES AND/OR STAFF PERSONS, AND THEIR ATTORNEYS OF RECORD, ~ TOOK PLACE COMMENCING ON OR ABOUT TUESDAY 1 APRIL, '08, AND CONTINUED THEREFROM UNTIL THEIR CULMINATION PRIOR TO THE SPECIAL PUBLIC MEETING AND QUASI-JUDICIAL DISCIPLINARY HEARING OF THE LAS VEGAS CITY COUNCIL ON MONDAY 7 APRIL, '08; AND THEREAS: ~

(1) THERE ARE NO MEETING MINUTES PUBLIC-AVAILABLE RESPECTIVE OF THOSE PUBLIC-EXCLUDED, PRIVATE MEETINGS, ETAL; AND:

(2) SAID PUBLIC-EXCLUDED, PRIVATE MEETINGS, ETAL, GIVE RISE TO THE APPEARANCE OF INTENTIONAL CIRCUMVENTION AND/OR FLAGRANT VIOLATION OF NRS 241, THE NEVADA OPEN MEETING LAW, IN THE PUBLIC PERCEPTION.

(TM, CONT'D)~

FINALLY, IN TERMS OF DOCUMENTABLE FACT:-

(E) THERE HAS NEVER BEEN AN INDEPENDENT AUDIT AND ACCOUNTING OF THE ADMINISTRATIVE POLICES AND PRACTICES, AND/OR OF THE FINANCIAL DEALINGS, OF THE MEMBERS OF THE LAS VEGAS CITY COUNCIL.

THEREFORE ACCORDINGLY:-

4. THE HEREIN ENTIRETY OF MY WRITTEN PUBLIC COMMENT IS SUBMITTED TO THE OPEN PUBLIC MEETING OF THE STATE OF NEVADA LEGISLATIVE COMMITTEE ON HEALTH CARE AT 9:00 AM TUESDAY 6 MAY, 2008, COUPLED WITH THE URGENT RECOMMENDATION AND REQUEST THAT THE COMMITTEE DIRECT THE TIMELY EFFECTUATION OF AN INDEPENDENT AUDIT AND ACCOUNTING, (AS REFERENCED IN HERINAFORE SECTION(E)), OF THE HERETO PERTINENT ACTIVITIES OF THE LAS VEGAS CITY COUNCIL, PURSUANT TO OFFICIAL DETERMINATION OF THE NATURE AND EXTENT (IF ANY) TO WHICH THE CITY COUNCIL WAS ENGAGED IN VIOLATION OF NRS 241, THE NEVADA OPEN MEETING LAW, OR WAS INVOLVED IN ANY OTHER UNLAWFUL ACTIVITY ADVERSLY IMPACTIVE UPON THE VICTIMIZED PATIENTS OF THE SUBJECT ENDOSCOPY CLINICS, AND IS THEREAS SUBJECT TO REMEDIATION IN ACCORDANCE WITH APPLICABLE LAW.

THE WRITTEN TEXT OF MY PUBLIC COMMENT IS SUBMITTED AND REQUEST<sup>ED</sup> INCLUSION IN THE MINUTES OF BOTH THE LEGISLATIVE COMMITTEE ON HEALTH CARE MEETING ON TUES. 6 MAY, '08, AND THE LAS VEGAS CITY COUNCIL MEETING ON WED. MAY 7<sup>th</sup>, '08.

THANK YOU.

(SUBMITTED)

TOM MCGOWAN  
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