

**CITY COUNCIL MEETING OF**  
*March 4, 2009*  
**COMBINED VERBATIM TRANSCRIPT – ITEMS 14, 55, 56 and 70**

**ITEM 14 – ABEYANCE ITEM - Approval of the Certificates of Results declaring the petitions submitted for The Las Vegas Taxpayer Accountability Act Initiative and The Las Vegas Redevelopment Reform Referendum as sufficient – All Wards**

**ITEM 55 – Discussion and possible action on the appointment of members to the Ballot Question Committees for The Las Vegas Taxpayer Accountability Act Initiative Petition and The Las Vegas Redevelopment Reform Referendum Petition**

**ITEM 56 – ABEYANCE ITEM – Discussion and possible action regarding consideration and ballot placement of Initiative and Referendum Petitions for June 2, 2009 elections and other related matters**

**ITEM 70 – Bill No. 2009-8 – Repeals Ordinance No. 5830, relating to the adoption of an Amended and Restated Redevelopment Plan. Proposed by: Bradford R. Jerbic, City Attorney**

**Appearance List:**

OSCAR GOODMAN, Mayor

GARY REESE, Councilman

BRAD JERBIC, City Attorney

RICKI Y. BARLOW, Councilman

STEVE WOLFSON, Councilman

DAVID STEINMAN, Councilman

BEVERLY K. BRIDGES, City Clerk

1 hour

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27 **MAYOR GOODMAN**

28 I – am gonna call some items out of order, here. Folks have been sitting very patiently.

29

30 **COUNCILMAN REESE**

31 Let's, Your Honor, let's do the Consent Calendar.

32

33 **MAYOR GOODMAN**

34 No. He said to do this first. I'm gonna call Items 14, 55, 56 and 70. These items will be heard  
35 together.

36 Item Number 14 is an abeyance item. The approval of the Certificates of Results declaring the  
37 petitions submitted for The Las Vegas Taxpayer Accountability Act Initiative and The Las  
38 Vegas Redevelopment Reform Referendum as sufficient, pertaining to all Wards.

39 Number 55 is discussion and possible action regarding the call for an appointment of members  
40 for the Ballot Question Committees for The Las Vegas Taxpayer Accountability Act Initiative  
41 Petition and The Las Vegas Redevelopment Reform Referendum Petition.

42 Number 56 is discussion and possible action regarding consideration and ballot placement of  
43 Initiative and Referendum Petitions for June 2<sup>nd</sup>, 2009 elections and other related matters.

44 And Number 70, Bill Number 2009-8. Repeals Ordinance Number 5830, relating to the  
45 adoption of an Amended and Restated Redevelopment Plan. Proposed by Bradford R. Jerbic,  
46 City Attorney. Mr. Jerbic

47

48 **BRAD JERBIC**

49 Thank you Mayor, members of –

50

51 **MAYOR GOODMAN**

52 Before you start, Mr. Jerbic, we have a lot of folks out there in the audience and I'm just  
53 interested, if you could give me by a show of hands, how many are unemployed, unemployed,  
54 not working. All right, it looks like, the better part, I think, when I spoke to Mr. White and Mr.  
55 Morley, earlier today, they indicated about, 90 to 95 percent of the folks out there do not have  
56 jobs right now. And Mr. White advised me that one of the mayor projects on the Strip ceased

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57 construction today and even more people will be laid off in the community. And it's with that  
58 background, that I believe, we're going to receive this report and recommendation from our City  
59 Attorney, Mr. Jerbic, and we'll listen very carefully to the advice you're gonna give us. Mr.  
60 Jerbic.

61  
62 **BRAD JERBIC**

63 Thank you, Your Honor, and members of Council. What I'd like to do first is read the new Bill  
64 into our, read the Bill, that's eligible for adoption into the record, so the procedure will  
65 (inaudible).

66  
67 **MAYOR GOODMAN**

68 I think you have to turn the mike on, please.

69  
70 **BRAD JERBIC**

71 Does this sound better?

72  
73 **MAYOR GOODMAN**

74 That's better.

75  
76 **BRAD JERBIC**

77 Yeah. Let me read Bill 2009-8, an Ordinance to repeal Ordinance Number 5830 relating to the  
78 adoption of an Amended and Restated Redevelopment Plan and provide for other related  
79 matters.

80 Your Honor, there are four items that you have called this morning and, in the vernacular, one of  
81 them is to accept the certification of the petitions that were submitted for the referendum and for  
82 the initiative as sufficient. For the record, those petitions are sufficient in a technical sense. The  
83 number of signatures that were required to be gathered by the committee appears to be sufficient.  
84 The people who make up the committee appears to be sufficient, but I have been asked by the  
85 City Clerk to opine, as to whether or not the petitions themselves are legally sufficient. That is,  
86 whether or not the subject matter contained in the referendum and the initiative are proper

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87     subject matter for consideration on the ballot.

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88     **MAYOR GOODMAN**

89     All right. I wanna everyone to be able to hear you. So, if we can turn the volume up or you go  
90     up to a different mike, I would appreciate that. Everybody needs to –

91

92     **BRAD JERBIC**

93     Is this one better?

94

95     **MAYOR GOODMAN**

96     That's much better, thank you.

97

98     **BRAD JERBIC**

99     With your indulgence.

100

101     **MAYOR GOODMAN**

102     Take your time.

103

104     **BRAD JERBIC**

105     Thank you. I hope that's a little better. Thank you. The, I have written a memo and I have  
106     presented it to the City Clerk today and I have made copies of it and presented it to the City  
107     Council. The memo concludes that in my legal opinion, both the referendum and the initiative  
108     are not legally sufficient and are not proper subject – matter for consideration on the ballot. I'd  
109     like to make a bit of a record this morning and then go through these four line items and make a  
110     recommendation to the Council as to how, I think, this Council should proceed.

111     Let me first say that, with respect to initiatives and referendums, voters across this country and in  
112     this City in the past and other cities in Nevada, have proposed to change the law to make  
113     legislative changes, which are permitted by initiative petition and repeal ordinances or laws,  
114     which are permitted by referendum petition. And from time to time, those laws that are  
115     proposed by citizens are not considered by voters in a vote, on a ballot, because they are illegal.  
116     This would be the equivalent of a Council trying to sponsor a law. If you couldn't propose it  
117     before this City Council, voters could not vote on it and adopt it either. An example that I've

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118 used during our briefings is a pretty harsh example, but I'll – just use it to illustrate, is that what  
119 if one of you wanted to propose an ordinance making a particular religion the official religion of  
120 the City of Las Vegas. I don't think anybody would have a doubt that that's unconstitutional,  
121 illegal, and I would advise this Council that you should not even consider it. And I have no  
122 doubt if it were adopted, it would be challenged and it would be defeated in court. That is the  
123 same for an initiative or a referendum. If voters proposed that same question, there is no way a  
124 city would put that question on a ballot. It wouldn't be voted on. There might be some legal  
125 challenges, but I'm pretty confident, at the end of the day, a court of law would say that it's not  
126 public, proper subject matter for the ballot.

127 In this particular case there is a referendum and an initiative petition that were filed on December  
128 9<sup>th</sup>, 2008. Again, as to the sufficiency of signatures and as to the formation of the petitions  
129 committee, the Clerk has determined there are no issues. Based on advice from my office, I  
130 believe there are sufficient legal issues and I wish for a moment to go through them.

131 The referendum petition, as proposed by the Petitioners Committee, proposes to repeal  
132 Ordinance Number 5830, which was an Ordinance adopted by the City Council that did two  
133 things. It restated the City of Las Vegas Redevelopment Plan and it added additional property to  
134 the plan. It is our opinion that by repealing that particular Ordinance, you end the life of the  
135 Redevelopment Agency. The reason we've come to that conclusion is because when you  
136 restated the plan in 19 or in 2006, you took every version in that plan and rolled up into one new  
137 plan. And if you repeal that, nothing survives.

138 Under Las Vegas Municipal Code 1.04.040, the Code specifically addresses what happens when  
139 you repeal an ordinance. And it reads, in relevant part, the repeal of an ordinance shall not  
140 revive any ordinance enforced before or at the time the ordinance, the repeal took effect. What  
141 that means is, if you repeal the restatement in 2006, you don't go back to the old ordinance that  
142 gave you a Redevelopment Agency with a little less property that was on the books before 2006.  
143 It goes away, period. That issue has been raised before. In 1995, a Petitioners Committee was  
144 formed in the City of Las Vegas, properly formed, gathered the proper number of signatures, and  
145 for technical sufficiency, they met that test. For legal sufficiency, they did not. They sought in  
146 1995 to repeal an ordinance that would, essentially, end the life of the Agency.

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147 The memo I've distributed to you today contains some information. The Agency currently has  
148 to repay \$23.3 million in Redevelopment bonds and \$50.8 million in Tax Increment Notes. To  
149 abolish the Agency is to abolish the income stream, the tax increment that pays over \$80 million  
150 in obligations. The United States Constitution addresses this. It's addressed from the day it was  
151 written and says that you shall not pass any law which interferes or impedes your existing  
152 contract rights; that's said in the vernacular. This has been looked by courts across the country.  
153 It is my opinion, based on the research I've done and contained in our memo, that has been  
154 distributed to the Council, and I will make part of the public record, that to repeal the Agency, as  
155 proposed by the referendum and petition, will absolutely impair, it'll end our ability to pay over  
156 \$80 million in obligations, and therefore, is unconstitutional.

157 I want to remark, without mentioning names, that when the Petitioners Committee was appraised  
158 of the fact that this was the law and there was a 1995 Attorney General Opinion, right on point,  
159 that this City had asked for, they responded that they were unfamiliar with the Attorney General  
160 Opinion and said, quote, we have structured a referendum so it wouldn't interfere with any  
161 existing bond obligations. That is not true. This is structured to kill the Redevelopment Agency  
162 and to absolutely impair your bond obligations as a consequence. As a result, based on our  
163 research, the United States Constitution and case law that flows from it, we believe it to be  
164 unconstitutional and an improper subject matter for inclusion on the ballot.

165 I wanna make part of the record, Your Honor, the 1995 Attorney General Opinion that I asked  
166 for from then Attorney General Frankie Sue Del Papa, that addressed that exact issue, very  
167 similar referendum, very similar outcome. And the Attorney General's Office concluded that the  
168 referendum simply may not be used to undo the Redevelopment Plan in this case because the  
169 City Council's adoption of the plan was administrative and not legislative in nature.  
170 Additionally, any attempt to repeal the Redevelopment Plan on the ballot would violate Article  
171 1, Section 10 of the United States Constitution. That's the Nevada Attorney General in 1995.  
172 It's no less true today as it was then. I'd like of file that with the Clerk.

173  
174 **MAYOR GOODMAN**

175 All right. If you hand that to Ms. Bridges. Thank you, part of the record.

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176 **BRAD JERBIC**

177 Your Honor, if I may approach, I also have copies for the Council.

178

179 **MAYOR GOODMAN**

180 Very good. Thank you. If you'd hand and those up to us, please. Thank you.

181

182 **BRAD JERBIC**

183 Before moving on to address the initiative petition, I would ask at this point in time if the

184 Council has any questions regarding our advice regarding the referendum petition.

185

186 **COUNCILMAN BARLOW**

187 Mayor Goodman?

188

189 **MAYOR GOODMAN**

190 Yes, Councilman Barlow?

191

192 **COUNCILMAN BARLOW**

193 Yes, I do have a question for Mr. Jerbic. Just so that I am clear. Are you stating that should we

194 move forward with the Ordinance today that's before us, should – it move forward, we run the

195 risk of dissolving the RDA and all of the contracts that are currently in place?

196

197 **BRAD JERBIC**

198 That is correct. Let me explain why this Ordinance is on the agenda. It's not exactly the same

199 we handled in 1995 but it is, it's on there for a reason. When I read that Bill into the record at

200 the last Council meeting and asked that it be fast-tracked, I also stated that just because my name

201 is on it for sponsorship, does not mean I am recommending this Bill. And I stated then that I am

202 not recommending that you adopt this Bill. I will, at the appropriate time, give you my

203 recommendation and my recommendation is for denial, and I will ask you take a vote to that

204 effect this morning. The reason we put it on the agenda in this form because I wasn't certain at

205 the time what might happen with respect with potential negotiations to resolve the – questions



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206 raised in the petition. I was not sure at the time whether the Council wanted to simply vote no  
207 on an ordinance because under the law, you have, from the time the signatures are counted, 30  
208 days to consider whether or not you wanna adopt the referendum. That's what the law says. So  
209 one way to look at it as we put it on to give you a chance to say no. That you did consider it and  
210 you said no. Because we have an open meeting law, the only way to find that out is to tee it up  
211 in front of you and have you take that vote. So that's why that Bill was on. It's never been on  
212 because I recommended it. It's never been on because I believe it's legal. It's only on because  
213 the law says you have 30 days to consider it and this is within the 30 days.

214  
215 **COUNCILMAN BARLOW**

216 So, in essence, the, there were enough signatures in order for an initiative to go on the ballot. Is  
217 that correct?

218  
219 **BRAD JERBIC**

220 Right. Separate from the Bill –

221  
222 **COUNCILMAN BARLOW**

223 Correct.

224  
225 **BRAD JERBIC**

226 – there are two things out there, a referendum, referendums repeal laws, take 'em off the books,  
227 that is out there. They gathered sufficient signatures. The petitioners live in the City. They  
228 meet the technical requirement but the subject matter, which is the repealing of the ordinance  
229 that creates the Redevelopment Agency Plan, is not proper – subject matter for the ballot. So  
230 with respect with that portion of my presentation, I have recommended that this Council, and I'll  
231 – ask you at the very end, direct the Clerk to send a letter to the Petitioners Committee indicating  
232 that the referendum will not be placed on the ballot for the reasons I have stated.

233  
234 **MAYOR GOODMAN**

235 All right. Councilman Wolfson?

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236 **COUNCILMAN WOLFSON**

237 Mayor Goodman, not be redundant, in simple terms, the petitioners followed the proper process  
238 in obtaining the ballots, the signatures, excuse me, and having the signatures certified. Is the  
239 substance of what they are asking for, in your opinion, is either unconstitutional or illegal, is that  
240 right?

241

242 **BRAD JERBIC**

243 That is exactly correct.

244

245 **COUNCILMAN WOLFSON**

246 When did the petitioners first file this referendum with the City? Because as I understand the  
247 process, they have first file something, giving us notice of what they were going to do, and then  
248 go out and get the signatures. Is that right?

249

250 **BRAD JERBIC**

251 That's correct. In December –

252

253 **COUNCILMAN WOLFSON**

254 When did they first file something?

255

256 **BRAD JERBIC**

257 December 9<sup>th</sup>, 2008.

258

259 **COUNCILMAN WOLFSON**

260 Just playing devil's advocate here, a little, we knew back in December, then, what they were  
261 going to try and do. Could we have then gone and sought a judicial opinion, basically  
262 supporting what you're saying, Mr. Jerbic, that the substance of what they're asking for is  
263 unconstitutional and illegal, and prevented these last three months of stuff and not be in a  
264 position we are today.

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265 **BRAD JERBIC**

266 What –

267

268 **COUNCILMAN WOLFSON**

269 Could we have foreseen what was coming and tried to get a judge to say what you're asking for  
270 is illegal and unconstitutional and I'm not going to allow you to go further in the process.

271

272 **BRAD JERBIC**

273 The – best answer I can give you to this question is this is a very dynamic process. When a  
274 petition shows up, the automatic presumption isn't that's illegal or it contains bad subject matter.

275 The – automatic thing that you do is you look at the technical things first. Have they met the  
276 dates? Did they meet the signatures? Have they submitted it? And then research goes into  
277 whether or not the petition is sufficient for – legal matters. In this particular case, I don't think  
278 it's any secret and since you raise a question, I don't know if there's any way to dodge it now.  
279 It's a 800, you know, pound elephant in the room.

280 There was an attempt and has been an ongoing attempt to resolve this. And because of an  
281 attempt to resolve it is inconsistent with what I'm doing today, we didn't do it until today. With,  
282 was, I – think the reason you're hearing it today instead of earlier or a court hearing it earlier, is  
283 because it was everybody's hope that this could be resolved. It's apparent, at least to me, that  
284 it's not going to be resolved. And in order give the Petitioners' Committee an adequate chance  
285 to go to court because I believe that's probably what they wanna do, I haven't discussed it with  
286 'em, this will give them a chance, and a court a chance, to resolve it. Are there other methods  
287 for doing it? There probably are. But at this point in time, this is the one I'm recommending to  
288 the City Council.

289

290 **COUNCILMAN STEINMAN**

291 Mr. Mayor?

292

293 **MAYOR GOODMAN**

294 Yes, Councilman.

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295 **COUNCILMAN STEINMAN**

296 Brad, \$74 million of debt, that is Redevelopment Agency's debt. If they're dissolved, does the  
297 City of Las Vegas have any obligation on that debt?

298

299 **BRAD JERBIC**

300 In my opinion, legally no.

301

302 **COUNCILMAN STEINMAN**

303 Okay.

304

305 **BRAD JERBIC**

306 But I will tell you that the chaos that will ensue from a revenue stream suddenly evaporating,  
307 that is committed to over 80 million dollars in financial obligations, will trigger a wave of  
308 lawsuits that look, make previous civil cases in this State pale by comparison.

309

310 **COUNCILMAN STEINMAN**

311 And – those bonds would be declared in default, if there was no –

312

313 **BRAD JERBIC**

314 They might.

315

316 **COUNCILMAN STEINMAN**

317 – income stream.

318

319 **BRAD JERBIC**

320 They might and the City would probably have some very difficult choices to make. One of the  
321 difficult choice the City might have to make is whether or not the black eye that is, it receives as  
322 a result of its association with the Agency, is worth bailing the Agency even though it doesn't  
323 have an obligation to do so. This becomes a very, very, very, complicated mess. And believe  
324 me, bond holders will be upset. Regulators will be upset. You're not gonna be any too happy at

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the end of the day when – you have to face the potential decision of what you do to replace this revenue stream. And giving what’s happened in the country already, it – it’s just almost unconscionable to me personally that we would leave people, you know, \$80 million in the lurch. But that’s why these laws, when you make a contract, you make a deal, you say, if you do this, we’ll do this. In this case, you buy these bonds, you make this deal, know you’re gonna receive tax increment, we’ll pay ‘em.

**COUNCILMAN STEINMAN**

Right.

**BRAD JERBIC**

That’s it.

**COUNCILMAN STEINMAN**

Okay. Thank you.

**MAYOR GOODMAN**

All right, Mr. Jerbic.

**BRAD JERBIC**

Let me proceed to the initiative petition. Initiative petitions propose laws. The, and initiative petitions have rules that govern what kind of laws can be proposed. The Nevada Constitution addresses this and let me read that portion. The people reserve, this is, I’m sorry, this is Article 19, Section 2, Subsection 1 of the Nevada Constitution, quote, the people reserve to themselves the power to propose by initiative petition, statutes and amendments, to statutes and amendments to this Constitution and to enact or reject them all upholds. That is the portion of the Constitution that allows citizens, not just councils and legislators to make laws, citizens can. And it goes on to say that they are further reserved, the registered voter of each county, each municipality as to all local, special municipal legislation of every kind and for such county and municipality. It sounds like a lot of legal gobbledygook, but citizens can propose legislation.

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355 Case law and everything interpreting that says bluntly, the initiative power applies only to  
356 legislation; however, it does not extend to administrative acts. Why is that relevant? Because  
357 that's exactly what this initiative petition does. It extends to administrative acts.

358 Let's talk about the first part of it. The first part of this petition, just like the petition in 1995,  
359 seeks to strip the Council of its ability to sit with its second hat on as the Redevelopment  
360 Agency, take away the Agency's powers to run the Agency as a Council and delegate it to the  
361 citizens of the City of Las Vegas.

362 Let's talk about the law. State Statute creates the ability to have Redevelopment Agencies. State  
363 Statute says, if you're going to have a Redevelopment Agency, the Board can be comprised two  
364 things, you pick. Number one can be you. You, the City Council, wear a second hat and you're  
365 the Agency. But if you choose not to be the Agency, you can appoint a board to be the Agency.  
366 So a board appointed by the Council or the Council sitting as a board, those are the two methods  
367 prescribed as State law. And under rules of statutory construction and the fact that we are a  
368 Chartered City subject to Dillon's Rule, you cannot pick another option that you aren't explicitly  
369 given in State law. So if you wanted to pass a law to give your Agency powers to the citizens,  
370 you couldn't because State law says you can only have two. It doesn't give you option three to  
371 give 'em to the citizens because you can't, neither can the voters, number one.

372 Number two, it is delegating administrative authority, administrative duties, to the citizens. That  
373 is not what initiatives are for. A second part of this initiative also, in my opinion, delegates  
374 administrative authority to citizens and that it makes the citizens responsible for an annual  
375 review or appropriation by vote for any project \$2 million or more that's a lease purchase  
376 project. Well, let's not ignore this 800-pound elephant in the room too. We're talking about  
377 City Hall here.

378 How many lease-purchase projects do we have? Zero. How many are we discussing right now?  
379 One. How many will involve that kind of appropriation? One. What is that project? City Hall.  
380 So, this is saying, in order to pay the lease payment on the City Hall, there has to be a vote of the  
381 people to appropriate. Very interesting because we do budgets every year, citizens vote every  
382 other year in municipal elections. It's hard to imagine how you can appropriate for a year that  
383 isn't a budget year. So I think there is a fault there.

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384 I think it's also administrative in nature. This is exactly what agencies are supposed to do.  
385 You're supposed to vote on ministerial administrative things, like spending money and paying  
386 bills and the like. Those are not proper subject matters for delegation to the voters. For those  
387 reasons, I believe the initiative petition is also legally defective and should not go on the ballot.  
388 I have also written in my memo because I have not shared with you every bit of legal advice that  
389 I have given the Clerk nor all the legal advice I've given this Council. And I thought to myself,  
390 in my presentation, today that, by omission of some arguments that we may wish to make in  
391 court later, 'cause I do anticipate a court battle, that somebody may argue because you didn't  
392 make 'em, you didn't preserve them. So I want the record to reflect quite clearly that what I  
393 presented today is the core of reasons and they're reasons alone for these two items, the  
394 referendum and the initiative to not go on the ballot. But there are other legal issues as well. I'm  
395 not gonna go into detail now but there is a single subject matter test in the State of Nevada. You  
396 can have only one single subject in – your question. I think that the initiative petition contains a  
397 multiple of subjects and may be in violation of that provision. There's also an argument to be  
398 raised as to whether or not the initiative petition, like the referendum petition, impairs an existing  
399 contract. The, there is a development agreement in place right now. We haven't got a final lease  
400 purchase agreement done but there's a development agreement in place with Forest City and  
401 other development agreements in place on the site. And they may well be, and when I say the  
402 site, the 61-acres, there may well be impaired by the initiative petition. And therefore, I believe,  
403 that those arguments you may wish to raise, along with several others, which I won't even go  
404 into at this time.

405 I also wanna put into the record, so that nobody thinks this is some strange creature and you're  
406 just making this up as you along, a complete record of what this Council did in 1995. What I'm  
407 gonna submit to the Clerk is already part of the public record, but it's the minutes of the Council  
408 meeting of August 16<sup>th</sup>, 1995. It's a memo from me to the City Council that's the backup  
409 material for that discussion item and it's the complete discussion, including my recommendation.  
410 These items are so similar, it's not even funny. The referendum in '95, almost exactly like this  
411 one, sought to get rid of the Agency. Initiative petition in '95 sought to delegate the powers of  
412 the Agency to the citizens of the City of Las Vegas. The only thing different about this one is,  
413 this particular initiative goes a bit further and talks specifically about appropriations for a lease-

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414 purchase projects and things like. So it goes even further into the administrative quagmire that is  
415 not subject matter for initiative petitions. I'm gonna file a copy of that with the Clerk. I also  
416 have copies to distribute to the Council.

417

418 **COUNCILMAN WOLFSON**

419 That one go to court?

420

421 **MAYOR GOODMAN**

422 No, what the Court, what the Attorney General said, it's no good. It ended – with the Attorney  
423 General's legal opinion.

424

425 **COUNCILMAN WOLFSON**

426 So it never died.

427

428 **MAYOR GOODMAN**

429 That was it. Correct.

430

431 **COUNCILMAN WOLFSON**

432 Can they do something like that with this one? Can – (inaudible) do the same thing?

433

434 **MAYOR GOODMAN**

435 Probably not.

436

437 **BRAD JERBIC**

438 In 1995, I stood before this Council and made a briefer presentation than the one I have made  
439 this morning. I ended that presentation with a recommendation. In 1995, I said that, I believe  
440 that both the initiative petition and the referendum petition should not be adopted as the laws of  
441 the City Council. And further that the Council should take a vote today stating that one, you will  
442 not adopt it as the law of the City. And two, that in your motion, order the City Clerk to not to



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place either of these items on the ballot for the reasons I've just stated. I feel a little déjà vu standing up here today because that is exact, my exact recommendation today.

I would ask if there are any questions. I'll be glad to answer them. But it is my recommendation that one, you take a motion to deny Bill 2009-8, sending a clear message that you are not accepting the referendum as the law of the City. That, two, you take a motion regarding Item Number 56, which would be a motion, if I could be so bold as to recommend it, to follow the advice of your legal counsel and direct the City Clerk to send a letter to the Petitioners Committee notifying them that neither the referendum nor the initiative would be placed on the ballot of the City of Las Vegas for consideration by the voters on June 6<sup>th</sup> of, on June 2<sup>nd</sup> of this year. Finally, a motion to strike the other two items. One, to accept the certification, I think the record's pretty clear that the certification only said that the votes are – the signatures are sufficient, said nothing more. We're saying today in clear, unequivocal terms that the subject matter of those initiatives and referendum is illegal, unconstitutional, and not properly the subject of a vote of the citizens. And also, strike the line item that would create a committee to write the yes or no question because since it's not gonna be on a ballot, we don't need a yes or no question. With that, I'll be glad to answer any questions of the Council.

**MAYOR GOODMAN**

All right. Are there any questions or comments at this time?

**COUNCILMAN BARLOW**

Yes, Mayor Goodman.

**MAYOR GOODMAN**

All right. Councilman Barlow?

**COUNCILMAN BARLOW**

Mr. Jerbic, just for clarification once again, you had mentioned two areas in which the Council can – move forward with establishing a board, one being electing ourselves and the second being

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472 through appointment. Give us some examples of some appointments or boards in which you're  
473 referencing.

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474 **BRAD JERBIC**

475 Let's say, for example, Housing Authority, you are able, under State law to having a Housing  
476 Authority. You can appoint that board and nothing prohibits you from appointing yourself.  
477 North Las Vegas' got a Housing Authority where the Housing Authority is the North Las Vegas  
478 City Council or at some point in time it was. We got one that isn't the Las Vegas City Council,  
479 it's citizens that you appointed. So, there are boards, you know, created by State law that you're  
480 allowed to have, that you're allowed to appoint within a certain range prescribed by State law.  
481 The range prescribed by State law for a Redevelopment Agency, City doesn't have to have one,  
482 chose to have one. If you're gonna have one, you have to have a board. The board, according to  
483 State law, can either be you, as a Council, or it can be citizens that you appoint. It doesn't give  
484 you option three, all the citizens of the City of Las Vegas.

485

486 **COUNCILMAN BARLOW**

487 And secondly, thank you for that, and secondly, earlier, during the Redevelopment Agency, Mr.  
488 Scott Adams came before us and presented a very powerful depiction of where the City has  
489 come from, from the – origination of the Redevelopment Agency to where we are today and  
490 where we're going, as far as the future. There has been millions of dollars pumped into the  
491 Redevelopment Agency since – its existence, and there's going to be billions of dollars coming  
492 down the pipeline in the future, currently and into the future. If in fact, this item does go before  
493 the voters and the Re, and the RDA is taken out, just reiterate what happens to the future  
494 development and those dollars and those jobs that Mr. Adams so eloquently displayed before us  
495 here today.

496

497 **BRAD JERBIC**

498 The, pardon my French, but the old saying is, it all goes to hell in a handcart. There is no way to  
499 predict the outcome of a dissolution of the Agency. As I said, quite honestly, the immediate  
500 thing that's gonna happen are the people that we have a TIF agreements with and the people that  
501 we have bond obligations too, are gonna come forward. You're gonna find, obviously, there'll  
502 be a complete inability to sell any bonds or finance any projects. In fact, that exists right now.  
503 You know, I work with your Finance Director and I work with our Bond Counsel regularly on

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504 these items. And every time you have something like a petition like this, that's out there, that it  
505 could potentially do something to harm the Agency, you need to make a disclosure to the people  
506 that might buy the bonds. And in a market as twitchy as the market we live in right now, it  
507 makes it almost impossible to finance anything. So the immediate consequence, just by  
508 circulating these petitions, it'll scare people away from backing your Redevelopment. If one of  
509 'em ever passed and a court didn't stop it, like I say, it would be, all gloves off. There'd be a lot  
510 of people fighting and we'd be right in the middle of it.

511

512 **COUNCILMAN BARLOW**

513 Thank you.

514

515 **MAYOR GOODMAN**

516 All right.

517

518 **COUNCILMAN WOLFSON**

519 Mayor Goodman.

520

521 **MAYOR GOODMAN**

522 Yes, Councilman Wolfson?

523

524 **COUNCILMAN WOLFSON**

525 Thank you. Mr. Jerbic, you are the City Attorney for the City of Las Vegas, are you not?

526

527 **BRAD JERBIC**

528 When I showed up to work this morning, I was.

529

530 **COUNCILMAN WOLFSON**

531 You've been – our City Attorney for how long?

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532 **BRAD JERBIC**

533 Seventeen years in August.

534

535 **COUNCILMAN WOLFSON**

536 And you are, this Body, we – are a Body, we are a Board. You are our legal advisor, are you  
537 not?

538

539 **BRAD JERBIC**

540 That's correct.

541

542 **COUNCILMAN WOLFSON**

543 We are your client.

544

545 **BRAD JERBIC**

546 Correct.

547

548 **COUNCILMAN WOLFSON**

549 If this gets into a court of law, as the City of Las Vegas being a party to an action, you will be  
550 our lawyer, will you not?

551

552 **BRAD JERBIC**

553 Correct.

554

555 **COUNCILMAN WOLFSON**

556 And, you've consulted with other lawyers regarding this. It's not just Brad Jerbic, who does a  
557 little legal research and comes before us and says, in my opinion, this is what you should do.  
558 You've consulted with other lawyers in this community about the strength and validity of your  
559 position, have you not?

560

561 **BRAD JERBIC**

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562 I have.

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563 **COUNCILMAN WOLFSON**

564 And you feel very comfortable in advising us of these matters, do you not?

565

566 **BRAD JERBIC**

567 I – do feel very comfortable. Let me state that both in 1995 and today, I consulted with our  
568 Bond Counsel, John Swenseid and his firm. I’ve had them do research for us. I’ve had them  
569 review our research. I believe, and I spoke to John, yesterday; he is, fortunately, being able to  
570 enjoy a vacation with his son in Orlando, Florida right now, so could not be here. But I asked  
571 him if I could represent on the record that he agrees with our legal conclusion that the  
572 Referendum is unconstitutional because it impairs our bond obligations and agrees with our  
573 conclusion that the Initiative Petitions are not subject matter for the ballot. He said I could  
574 represent to this Council. He does agree with those legal positions and he has researched it. I’ve  
575 also talked to private counsel, who represent (sic) other clients that also have an interest in  
576 seeing redevelopment go forward. They have done research. We have discussed it and they  
577 agree, and I believe you may hear from them this morning, if the Mayor wants to take any public  
578 comment on this.

579

580 **COUNCILMAN WOLFSON**

581 But you have not heard from any other lawyers or learned counsel that have an opinion  
582 differently from yours.

583

584 **BRAD JERBIC**

585 Nobody that I’ve talked to has an opinion differently. I will – go out on a limb on this one  
586 speculate that the Petitioners Committee is gonna sure as heck gonna have a different legal  
587 opinion, but that, that’s just the nature of it. But I will tell you that, we – have done a lot of  
588 careful research on this. I – this is probably too much detail for you. I wanna point out in my  
589 memo for example, I cite a case in here that I had also cited back in 1995, the Forman vs Eagle  
590 Drugs Case.

591 You’re gonna probably hear counsel in the very near future say, well that’s been over turned.  
592 They’re still citing the same case. Part of this case has been over turned. I’m well aware of that,

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593 but the part I cited for, hasn't. So, you're gonna – hear a lot of stuff. We, we've done our  
594 homework. We, we've done our research. We've read our cases and I believe that – we are  
595 legally correct.

596  
597 **COUNCILMAN WOLFSON**

598 The – reason that I ask you this question, just to conclude, is that, it's not an easy thing. I don't  
599 know how my colleagues feel, to reject what a certain number of citizens in the City of Las  
600 Vegas is asked to do. And that is to be able to vote in a democratic way on something. What  
601 you're basically telling us is to not listen to the voters, in a sense. Not that they haven't followed  
602 the right process and not that we don't believe in a democratic process, but because what other  
603 people are asking the voters to potentially vote on, is illegal and unconstitutional. So, it's not an  
604 easy thing for us to reject what our citizens have done by way of a referendum and initiative  
605 process. But in your learned opinion, what the voters would be asked to do is just that. It's  
606 illegal and unconstitutional and that's why you're giving us this opinion to reject that.

607  
608 **BRAD JERBIC**

609 And I – that's correct. And – don't get me wrong. I cast no aspersions on the Petitioners  
610 Committee or – anyone associated with – trying to propose this. I'm merely addressing the law.  
611 I – can tell you that, clearly, this is what Councils do from time to time. You have to make the  
612 very difficult decision of following or not following the advice of counsel, when it comes to  
613 allowing things to go on your ballot. Our law says this is your election, this is your ballot, you  
614 control it. This isn't someone else, this is your Clerk sitting right here that puts, sponsors this  
615 election. And so you have the ultimate control of what goes on or what doesn't go it. If  
616 somebody disagrees, there's a remedy for that. They can go to court and that's perfectly fine  
617 with me. But I will tell you in 1995, this Council, differently constituted, had to make that same  
618 difficult call. In Reno recently, the City Council had to make that same call. In Carson City, the  
619 Council made that call. In Mesquite, Nevada, the Council made that call. And across this  
620 country, I can probably name just about every city at some point in time that's had to say no to a  
621 petition that was illegal.



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622 **COUNCILMAN WOLFSON**

623 And – tell us again what happened in the 1995 situation. The – a different Council, obviously,  
624 accepted your advice. It was not put on the ballot and what happened procedurally after that?

625

626 **BRAD JERBIC**

627 After that, it, nothing. The petitioners in that particular case did not take us to court. I think that  
628 was the end of it. They – could have. They didn't. But again, we were at a point in the process  
629 back then, if my memory serves correctly, where they had turned in the petitions. They had  
630 sufficient signatures. They had everything this has got going for it, but the same flaw. The core  
631 of it was illegal.

632

633 **COUNCILMAN REESE**

634 For the record –

635

636 **MAYOR GOODMAN**

637 Yes.

638

639 **COUNCILMAN REESE**

640 – for the record, Your Honor, I was here – in 1995.

641

642 **MAYOR GOODMAN**

643 All right. All right, fine. Anybody – else wanna be heard?

644

645 **COUNCILMAN REESE**

646 I – want a, couple comments.

647

648 **MAYOR GOODMAN**

649 Certainly, please.

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650 **COUNCILMAN REESE**

651 Mr. Jerbic, is it, make any difference how these petitioners went – about getting the petitions  
652 signed?

653

654 **BRAD JERBIC**

655 If you're asking –

656

657 **COUNCILMAN REESE**

658 Well –

659

660 **BRAD JERBIC**

661 – differences that would make a difference would be getting signatures outside the City of Las  
662 Vegas, that would make a difference. Differences in – not informing individuals what the  
663 petitions would do and, by the way, that, that's another legal argument we'll make, is that we do  
664 not believe the Petitioners Committee informed people that the re, the referendum, which  
665 dissolves the Agency, would impair the bonds and everything else. So that's another issue we  
666 will raise.

667

668 **COUNCILMAN REESE**

669 But again, though, they was (sic) told, I had a petitioner come to my house and my wife was told  
670 that through this new City Hall, what we was (sic) doing, in essence, was taking money away  
671 from the School District. And I think those people that (sic) here this morning and that (sic)  
672 were watching us on TV at home, I think, through Mr. Wolfson as well as Scott Adams, it was  
673 showed what the RDA has done for the School District because of our redevelopment area. And  
674 I think that they was (sic) misinformed, the petitioners themselves were misinformed, when they  
675 came around trying to get the petition signed. And I don't think that the – to me, I don't really  
676 feel like, they – even knew what they was (sic) doing when they come around asking people to  
677 sign the petition.

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678 **BRAD JERBIC**

679 The, let – me comment on that for a moment, with your permission, and part of this will be  
680 outside of my attorney role. I was present at the Debt Management Commission when the City  
681 made a presentation to get the permission to go forward with the bonds or with the COPS,  
682 Certificates of Participation. And it was – apparent to me that, very learned people who sit on  
683 that Debt Management Commission, were not aware of the – real way redevelopment works  
684 when it comes to sharing that tax increment with education, sharing that money with other  
685 things. There's – a belief out there that, whatever the tax base was when the Agency was  
686 formed, everything above that just goes to the Agency and it doesn't go anywhere else. And  
687 that's just not true. And – so, there's probably some education that needs to go on, that's up to  
688 you to decide how to do it.

689 I – also know that I – heard at the last meeting, a representative of, from one of the groups  
690 supporting the petition and against the City Hall project, got up and started talking about what  
691 this project was and what it wasn't. That these were revenue bonds and that there was a deed  
692 restriction on the property under the City Hall that said it could only be used as a City Hall.  
693 Well, the fact of the matter is, they were looking at – documents that had long since been  
694 redrafted. In an early draft of – the – agreement for the lease purchase agreement, we did put a  
695 deed restriction in saying, the building we're gonna lease could only be used as a City Hall. And  
696 then we found out later on that that wouldn't fly because, if we move out, you can't have that  
697 deed restriction because the owners of the building don't wanna lease it to someone else and we  
698 were told to take it out and it had been taken out before that person got up at the podium and  
699 made that representation to this Council.

700 So, Councilman, when it comes to lack of information or improper information, I can only tell  
701 you, and I – just assume it's mistakes on peoples' part (sic) for not being careful enough to –  
702 read everything. We have had public records requests of the City of Las Vegas going on for the  
703 last three or four months. And quite often, when you pull that kind of information on the City  
704 and the volume it's been given under the public records request, you have to, very carefully, sit  
705 down and figure out which one of these is the most recent draft, which is the most current  
706 iteration. You rely on the wrong one, you give misinformation. And I heard at the last meeting,  
707 a considerable amount of misinformation being given out about what the project was and what it

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708 wasn't 'cause they were pulling drafts and relying on them for – things that had long since been  
709 renegotiated or weren't going to deal anymore, and that's just going to continue to go on. I don't  
710 know what to do about it, except for take every opportunity we can, which is why I spend a few  
711 moments right now to correct the record.

712

713 **MAYOR GOODMAN**

714 Anybody else?

715

716 **COUNCILMAN BARLOW**

717 Yes, Mayor Goodman.

718

719 **MAYOR GOODMAN**

720 Councilman Barlow.

721

722 **COUNCILMAN BARLOW**

723 Thank you. Mr. Jerbic, does the community, citizen groups and citizens have the opportunity or  
724 the constitutional right to sign a petition, if in fact they disagree or agree with something?

725

726 **BRAD JERBIC**

727 Everybody has a right to circulate one, everybody has the right to sign one or not sign one. But,  
728 again, the subject matter itself is still relevant. Just because we have a right, just because you  
729 have a right to propose laws, it doesn't mean as a City Council, you can propose any law you  
730 want. Just because the Congress has a right to propose laws, doesn't mean they can propose any  
731 law they want. And so, in this particular case, that's what we're saying, petitioners are perfectly  
732 within their right to form a committee, perfectly within their right to circulate a petition, but it's  
733 gotta contain subject matter that is legal. And in this case, it's not, in my opinion.

734

735 **COUNCILMAN BARLOW**

736 And okay, and – that's exactly what I was leading towards. Because the last thing that I want, at  
737 least from me and the Council is, the fact that we're considering rejecting the hard-working

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738 effort that went into, whether we stand for it or – not, we believe in it or not, still the residents  
739 still have an opportunity to move forward with the petition that they feel very strongly for or  
740 against. However, in this case, what has been presented, according to what you’re sharing with  
741 us – here today, is a – document that is illegal.

742

743 **BRAD JERBIC**

744 That’s my opinion. I – will –

745

746 **COUNCILMAN BARLOW**

747 And, if in fact – and – just let me say this, and if in fact, it were, everything were (sic), was in  
748 place, what would your recommendation be?

749

750 **BRAD JERBIC**

751 If everything were legal?

752

753 **COUNCILMAN BARLOW**

754 Yes.

755

756 **BRAD JERBIC**

757 I wouldn’t be standing here today.

758

759 **COUNCILMAN BARLOW**

760 Okay.

761

762 **BRAD JERBIC**

763 If this were legal, I wouldn’t be standing here; that’s what you pay me for.

764

765 **COUNCILMAN BARLOW**

766 Thank you for that.

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767 **BRAD JERBIC**

768 You know, one of the things I do want to point out, when you talk about the efforts that people  
769 put into this and the Councilman raised earlier, what are your other options and things like that,  
770 let me point out that, I – do not consider the group that put this together to be without resources.  
771 They, potentially, are well healed enough to be aware of law (sic) out there and Attorney General  
772 opinions out there. When I read in the Sun Newspaper, you know, on January 9<sup>th</sup> of this year  
773 that one of the members of the Petitioners Committee was unfamiliar with the 1995 Attorney  
774 General opinion when the facts are so strikingly similar, was surprising to me.  
775 When, so when you talk about now, I also received letters, by the way, from counsel from a –  
776 group associated with the petitioners. I also received letters saying, after the Mayor made a  
777 comment, I think that this is, they have legal sufficiency problems. I received a letter saying,  
778 you gotta tell us what they are or you can't raise them later on. Well, if – they made a mistake in  
779 the procedures, they're probably right. The Clerk would have to tell 'em. Here's how you have  
780 to form a committee. You have to live in the City, you have to this, you have to this and here's  
781 how many signatures you need. There's no law out there, that I'm aware of, that says we have to  
782 tell how to write it to – make it better. That's the risk that people take when they circulate these  
783 things. If they want to put together a petition that doesn't have a subject matter in it, that is  
784 considered legally sufficient and there's been plenty of research out here that goes almost right  
785 to the heart of this one, including the 1995 Attorney General opinion and the record of the City  
786 Council, I'm sorry, but that's something that should have been done before this thing was  
787 circulated.

788

789 **MAYOR GOODMAN**

790 Any other comments or questions? All right, before I call for the vote, I'd just like to say that I  
791 am saddened by the events which have brought us to this point. Saddened that the  
792 Redevelopment Agency without what you heard this morning, of its great success in changing  
793 the face of the City and taking us into the major leagues, probably the most successful  
794 development that's occurring in the Valley today, is the subject of being placed in jeopardy. I'm  
795 really saddened by all those folks who raised their hands this morning, who are the backbone of  
796 our community. The hard workers who helped build and make this the world-class city that all

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797 of us thirst for, are out of work. I'm saddened by the fact that there are jobs which would be  
798 created with other members of the union movement, which could have been placed into  
799 jeopardy, had replaced this on the ballot, in effect, giving it our affirmation that it's legal and  
800 appropriate for voter consideration.

801 The bottom line is this, we, we're gonna do everything we can to keep the City going in the right  
802 direction, to make it a great city, with great buildings, housing great people with great minds,  
803 who will address horrible diseases, like what we'll be taking place at the Lou Ruvo Brain  
804 Institute, with the Cleveland Clinic's involvement. Will continue to build wonderful cultural  
805 centers, like the Fifth Street Elementary School and the Performing Arts Center; those things  
806 will take place and you people will be back to work, if this Council has anything to do with it.

807 All right. Thank you, folks. (Inaudible). With that – I'm going to turn to the Mayor Pro Tem,  
808 your motion, please.

809

810 **COUNCILMAN REESE**

811 Yes, Your Honor. I believe, Brad, you want a – motion for Item 70 first?

812

813 **BRAD JERBIC**

814 Yes, Item Number 70 should be taken first, that is the Bill, and again, my recommendation is for  
815 denial.

816

817 **COUNCILMAN REESE**

818 I move to follow the advice of the City Attorney given us today and vote to deny Item 70, Bill  
819 Number 2009-08.

820

821 **MAYOR GOODMAN**

822 All right, please, vote.

823

824 **BEVERLY BRIDGES**

825 (Inaudible).

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826    **MAYOR GOODMAN**

827    Please vote. Post.

828

829    **BEVERLY BRIDGES**

830    (Inaudible).

831

832    **MAYOR GOODMAN**

833    You want us to vote again?

834

835    **BEVERLY BRIDGES**

836    (Inaudible).

837

838    **MAYOR GOODMAN**

839    All right, let's vote, please. Okay.

840

841    **BRAD JERBIC**

842    Thank you. Mr. Mayor Pro Tem, I also think there were a couple of more motions before—

843

844    **MAYOR GOODMAN**

845    Wait, we didn't vote, that we do need a new City Hall, they asked. Okay motion carries.

846    **(Motion carried unanimously with TARKANIAN not voting)**

847

848    **BRAD JERBIC**

849    That was on Item Number 70. I think, we also need a motion on Number 56.

850

851    **COUNCILMAN REESE**

852    Yes. Further, under – Item 56, I move to follow the advice of the City Attorney and order the

853    City Clerk to not place the referendum and issue proposed by the Las Vegas Taxpayer

854    Accountability Committee filed December 9<sup>th</sup>, 2008 on the ballot for consideration.

855



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856 **MAYOR GOODMAN**

857 All right, let's vote on that, please. Post. Motion carries. **(Motion carried unanimously with**  
858 **TARKANIAN not voting)**

859

860 **COUNCILMAN REESE**

861 And Your Honor –

862

863 **BRAD JERBIC**

864 That was – 56, oh, I'm sorry, that was 50 (sic), 56.

865

866 **COUNCILMAN REESE**

867 Based on the advice of counsel and the last two votes taken by this Council on Item 50 (sic), 70  
868 and 56, I move to strike Item Number 55 and not approve Item Number 14 based on the legal  
869 insufficiency of the subject matter of the petitions.

870

871 **MAYOR GOODMAN**

872 All right, let's vote on that please. Post.

873

874 **COUNCILMAN WOLFSON**

875 It hasn't come up my button.

876

877 **BEVERLY BRIDGES**

878 (Inaudible)

879

880 **MAYOR GOODMAN**

881 Vote again, please. Post. Motion carries. **(Motion carried unanimously with TARKANIAN**  
882 **not voting)**

883 **BRAD JERBIC**

888

890 Very good. Thank you.

891

892

893 (END OF DISCUSSION)

894

895     /ac;da/cv;da;ac