

CITY COUNCIL MEETING OF
June 16, 2010
VERBATIM TRANSCRIPT – ITEM 72

Bill No. 2010-22 – Updates the City’s zoning and licensing regulations that apply to community residences (commonly referred to as group homes) and similar uses.

Appearance List:

OSCAR GOODMAN, Mayor

BRAD JERBIC, City Attorney

GARY REESE, Councilman

LOIS TARKANIAN, Councilwoman

BEVERLY K. BRIDGES, City Clerk

JAMES LEWIS, Deputy City Attorney

STEVE WOLFSON, Councilman

STEVEN D. ROSS, Councilman

KENNY FONG

LYNN TYNAN, President of the Nevada Coalition of Recovery Homes

STAVROS S. ANTHONY, Councilman

LISA MORRIS-HIBBLER, Deputy Director of Neighborhood Services

LEX ANDERSON, Northwest Area Residents Association

MARY KREMER, Northwest Area Residents Association

TODD FARLOW

DENNIS WINSLOW

RICKI Y. BARLOW, Councilman

BRUCE BONGARDT, BDB Industries, LLC

ELIZABETH FRETWELL, City Manager

JIM DiFIORE, Business Services Manager

JOE MAVIGLIA, H and E Training Schools

BRYAN SPUHLER, Case Manager for Group Foster Home

2 hours

Typed by: Angela Crolli

Proofed by: Lean Coleman; Gabriela Portillo-Brenner

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31 **MAYOR GOODMAN**

32 Now, instead of calling Item 72 now, because it could take some time, it's been suggested to me
33 that we call Item 73.

34

35 **END RELATED DISCUSSION – RESUME RELATED DISCUSSION**

36

37 **MAYOR GOODMAN**

38 We're going to move back to Item Number 72. Item 72 is Bill Number 2010-22. Updates the
39 City's zoning and licensing regulations that apply to community residences, commonly referred
40 to as group homes and similar uses. Mr. Jerbic, could you please read the Bill before we open
41 this up?

42

43 **BRAD JERBIC**

44 I'll be happy to, Your Honor. Bill Number 2010-22, an ordinance to update the City's zoning
45 and licensing regulations that apply to community residences, commonly referred to as group
46 homes and similar uses and to provide for other related matters. Before the presentation begins,
47 I'd just wanna let you know that I'm gonna turn the rest of the morning's legal advice over to
48 Dan Still, here at the dais. I understand there may be some questions regarding some group home
49 issues that he worked on. And Mr. Lewis is the responsible party for putting in all the
50 extraordinary work on behalf of our office to create this new legislation, and he's at the podium
51 to explain it.

52

53 **MAYOR GOODMAN**

54 All right, very good. Before we hear from Mr. Lewis, Mayor Pro Tem would like to be heard.

55

56 **COUNCILMAN REESE**

57 Yes, Your Honor. Thank you very, very much. This has been an issue before the, this Council
58 for, to me, many, many years. This new group home that will be presented to us today is brought
59 to us by our federal legislators. I –, I've had probably six of these homes that come directly to
60 me today, in my mind. One, was in a cul-de-sac, where we had some very, a couple of, a dentist

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61 lived in this cul-de-sac. A person bought one of these homes and made it a group home. Those
62 dentists couldn't even give their house away. It does bring an issue and a problem to a
63 neighborhood, and I hope I'm not trying to stereotype any individual or any group of people. It is
64 a problem. I have a home that was opened about three weeks ago on, down on Charleston and
65 16th Street that we have, for us, we can have, four people living in this home. At the present
66 time, there's probably, 15 to 20 people in and out of this house during all times of the hours and
67 –, in the day and night.

68 It is a problem and we had, I worked very closely or the City worked very closely with the, a
69 couple of legislators, Chris Giunchigliani, which was one, when she was serving in the
70 legislature. We did get enacted, through the legislature, later deemed unenforceable, where we
71 did have a distance requirement for these homes. This has come, to me, it's gonna become even
72 a greater problem today because of the mortgage rates that we have, the values of these homes
73 today. It's mostly been in Wards 1, 3 and 5, the last few years, but now they're starting to break
74 out in some of the other Wards. And it is a problem.

75 If a group home moves in to you and it is not kept up, if we, the City, don't have regulations to
76 be able to go in there and enforce what needs to be enforced, the whole neighborhood is gonna
77 go down. What we find is we have a business in a residential zone. We don't even have the
78 opportunity to license. And we do have the ability of Code Enforcement to go out there, but even
79 Code Enforcement's hands are tied when they – go out and try to enforce some of the things that
80 are going on in these houses. The one down on by Charleston, people are parking in the
81 backyards; they're parking in the front yards.

82 I had – an individual contact me. He had a person come to his house at 10:30 at night. He did
83 have the security doors on there. His wife went to the door; they was (sic) scared. They're
84 elderly people. The – woman called the husband, the husband come there to the front door and
85 the person wanted this person to drive them to a hospital, supposedly because his wife was in an
86 accident. Now, you would think that with the vehicles in the yard next door, one of them could
87 have drove (sic) this gentleman. I have no idea what – the gentleman was planning because the
88 person who contacted me shut the door in their face.

89 This is just the beginning because it's cheaper for these people to have four, five, six or seven,
90 eight or nine of these houses right in a neighborhood now, 'cause they can have one, supposedly,

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91 supervisor for it. And – it is, to me it's, it's – a – business. We need to, to me, attract attention
92 of our federal delegation so they can help us. Our –hands are tied. Our staff is trying to help us
93 here today to give us just a little bit of, to me, a band aid on a – huge, huge wound that's just
94 gonna keep growing and growing and growing and festering, until we get somebody on the
95 federal level to come in here and help us support the needs that we have in – our neighborhoods.
96 To me this – is one of the biggest infections that this City will ever incur, if we don't, if we are
97 not unable to control. And I would be glad to listen to Mr. Lewis, but I want to put those
98 comments on the record because I have been faced with it, I have had neighborhood meetings,
99 we – have people today that are going into other parts of the Ward.

100 Through our staff, we did get, through Code Enforcement and our attorney's office, we had a
101 person that had a home like this on Chapman Drive and we had many, many, many people come
102 to my office. I had a meeting in my office, supposed to have four people, we couldn't even – sit
103 everybody down in the – Mayor's Conference Room, there were so many people there. And their
104 property values immediately went down to nothing. Now, this was a home that had three
105 bedrooms, and there was 27 people at one time living at this facility. And it's just – to me, it's
106 uncontrollable right now. We need – to make sure that we support anybody and everybody that
107 will listen to us. I know that the County has a bill that we're going to try to copy a little bit, that
108 they're gonna present to us today, but even then, I don't think it's enough. And that's why I
109 asked Mr. Olivas to stick around today so that he can hear this and so we can make contact with
110 our lobbyists back in Washington, so that we can talk to our legislators back there and see if we
111 can get some help at this time because it is, it's – gonna fester and fester and fester and fester.

112 Thank you, Your Honor.

113
114 **MAYOR GOODMAN**

115 All right.

116
117 **COUNCILWOMAN TARKANIAN**

118 Mr. Mayor, could I just ask a question? Are you talking about homes where numerous families
119 living together?

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120 **COUNCILMAN REESE**

121 Yes.

122

123 **COUNCILWOMAN TARKANIAN**

124 And by the way, I want you to know; I agree with you, this is a problem. It causes tremendous
125 damage to a community –

126

127 **COUNCILMAN REESE**

128 We're,

129

130 **COUNCILWOMAN TARKANIAN**

131 – the way they let them –

132

133 **COUNCILMAN REESE**

134 – we – have – homes where we have multiple families living there. That has nothing to do, this
135 is a person supposed to get a license through the state for a group home.

136

137 **COUNCILWOMAN TARKANIAN**

138 For a group home –

139

140 **COUNCILMAN REESE**

141 And we have –

142

143 **COUNCILWOMAN TARKANIAN**

144 – for special needs. Okay. I gotcha.

145

146 **COUNCILMAN REESE**

147 The state – doesn't enforce it, they can't enforce it. There's no rules locally that controls this
148 group home. And because of the economy today, to me, it's – gonna be a real big problem
149 because you take a fairly nice or even a neighborhood in Wards 2, 4 or 6, where you, where

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150 people can buy these houses or rent these houses for little or nothing and put some of these group
151 homes in there and if I live next, I can't give my house away.

152

153 **COUNCILWOMAN TARKANIAN**

154 Well, and I will tell you, Mr. Councilman, that one of the problems, which I've shared, we had,
155 around our Pitman Elementary School, we had five such homes and it just seems such a close
156 radius. You know, you have a big problem and then you have it all massing together. But in any
157 case, I understand what you're talking about. Thank you.

158

159 **MAYOR GOODMAN**

160 All right.

161

162 **COUNCILMAN REESE**

163 We had – a (inaudible) legislation that was passed through, (inaudible) Your Honor that it
164 allowed us, oh, it allowed us 16, sixteen hundred feet separation.

165

166 **BEVERLY K. BRIDGES**

167 The mike is not on.

168

169 **COUNCILMAN REESE**

170 That we had – sixteen hundred feet separation and the – supreme court, in their wisdom, deemed
171 this illegal, and so they – throw it out, and it's just, it's been really, really hard to get people to
172 listen, to help. And I've spent a lot of sleepless nights. I've –, I went and I met with neighbors. I
173 tried to explain to them it's not a problem that we created, that we're trying to find the answer for
174 this problem but it just continues. And – we've, we denied two group homes under the – pretext
175 that it was within sixteen hundred square feet. And luckily, we wasn't (sic) sued. The people
176 went somewhere else and bought houses in – probably, your Ward, and put in the same – thing.
177 But it is – a problem and I – appreciate the – Council listening to me, this item, and I just hope
178 that we can come up with some ideas, some answers and get help because this is a problem and
179 it's gonna be, it's gonna get bigger too.

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180 **MAYOR GOODMAN**

181 All right, let's hear from Mr. Lewis.

182

183 **JAMES LEWIS**

184 Mayor, thank you very much. Mr. Mayor, Council, thank you very much for hearing me, for
185 hearing from me today. I'm gonna try to be brief today, as much as I can. I know we've got
186 some people in the audience that wanna come up and speak, and talk to you and can tell you
187 about what it is they have to say and what's happened in their neighborhoods. What I'll do is I'll
188 sit; I'll listen to any questions that – come up. I'll write them down and if you'd like me to
189 address those questions, when they're done, I certainly will do so.

190 I think what's really important here is that, I'm here to talk to you today, about not all group
191 homes, not group homes for, not homes that are gonna have ex-convicts, not homes that have sex
192 offenders. I'm here to talk about homes that house the disabled, because really, this ordinance
193 amendment that we're contemplating today has to do with compliance with the federal anti
194 discrimination laws against disabled persons. So, Mayor Pro Tem, I'm not sure if these homes or
195 homes for disabled or home, other type of group homes, but it's important for the record that I
196 just say, that we're here to talk about today are rules to help us comply with federal anti
197 discrimination laws for the disabled.

198

199 **COUNCILWOMAN TARKANIAN**

200 But Mr. Mayor, can I just state, please, will you state who they consider disable? That's all, I
201 mean, drug addicts are considered disabled and alcoholics are considered disabled. I just want
202 you to make sure we're understanding the two meanings.

203

204 **JAMES LEWIS**

205 Mr. Mayor, if I may.

206

207 **MAYOR GOODMAN**

208 Yes.

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209 **JAMES LEWIS**

210 Yeah, as I said, I'm trying to just kinda of clarify the record here about which types of homes
211 we're talking about. It is true that there's been decades and decades and decades; 30, 40, 50
212 years of case precedent that declare one who has, one who suffers from alcoholism or drug
213 addiction who is not currently using drugs and or alcohol, are disabled for purposes, handicap
214 disabled for purposes of these anti discrimination laws. So, thank you very much,
215 Councilwoman. Councilwoman, did you have a comment?

216

217 **COUNCILWOMAN TARKANIAN**

218 I think one of the things that perhaps, Councilman Reese would consider, and the reason I'm
219 interjecting here, is because I've listened, I've gone through a lot of the things that you've
220 covered on this, is that, if you have a home for those who have problems with drugs, you're –
221 saying that if you're, you just said that they're no longer on drugs but they might still be on
222 drugs. Whose, no, they're not supposed to be on drugs, but we don't know for sure if they're on
223 drugs because we have so many relapses with people who have drugs. And, I mean, let's face it,
224 I've had con, I mean, I worked with athletes who could have earned multi, multi million dollars a
225 year if they could get off drugs and they never could, no matter where they went and they paid
226 the most expensive monies. So, if they're still on drugs, whose watching to make sure that these
227 people are no longer on drugs?

228

229 **JAMES LEWIS**

230 Well –

231

232 **COUNCILWOMAN TARKANIAN**

233 I'm – just saying from Councilman Reese to –

234

235 **JAMES LEWIS**

236 I understand. Thank you very much, Councilwoman. Mr. Mayor, I might just start, be very brief
237 here, with regard to why we're here today. In fact, in mid 2008, Nevada Federal District Court
238 Judge Larry Hicks, invalidated the state Blankenship Regulatory Process with regard to group

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239 homes. That's what happened, period. Our City regulatory process was based, solely, upon the
240 mandates of state law. So, the state law regulatory process, the land use regulatory process, was
241 invalidated. Ours wasn't because we didn't happen to be part of that lawsuit. But now we know
242 that our process has been declared invalid.

243

244 **MAYOR GOODMAN**

245 What part?

246

247 **JAMES LEWIS**

248 The – whole – land use regulatory process, NRS 278.0238, 2.02388 of our land use of NRS land
249 use and zoning chapter.

250

251 **MAYOR GOODMAN**

252 But – put it in layman's terms, so people understand.

253

254 **JAMES LEWIS**

255 Yeah.

256

257 **MAYOR GOODMAN**

258 What – part has been declared invalid?

259

260 **JAMES LEWIS**

261 Well, okay. So, the – land use process, the state land use process defined what these, what types
262 of group homes were protected by this process or were to be governed by this process. That was
263 invalidated. The – distance proximity requirements, the fifteen hundred feet between, from
264 property line to property line, between certain types of group homes is defined, was invalidated.
265 A mechanism for tracking group homes was invalidated. There were about seven or eight
266 different provisions which were invalidated as a part of that process.

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267 **MAYOR GOODMAN**

268 And now we're trying to get ourselves in compliance with what?

269

270 **JAMES LEWIS**

271 We're trying to get ourselves in compliance with the federal laws and the Nevada Federal District
272 Court opinion interpreting those federal laws as applied to that state process.

273

274 **MAYOR GOODMAN**

275 And that's what your ordinance – is directed to. Correct?

276

277 **JAMES LEWIS**

278 Correct.

279

280 **MAYOR GOODMAN**

281 And who's responsible for enforcing the ordinance?

282

283 **JAMES LEWIS**

284 The Code, the City of Las Vegas. One of the reasons why the team of people gathered by the
285 City Manager to address this issue, one of the reasons why we needed to changes that are being
286 proposed, is to streamline the folks who will enforce these laws on behalf of the City of Las
287 Vegas. The Code Enforcement Division will be the folks responsible for addressing complaints
288 from our citizens and constituents about homes, whether they are part of this change, the home
289 for the disabled, or one that is not part of this change.

290

291 **MAYOR GOODMAN**

292 Is – it a criminalizing activity that's to be enforced by Code Enforcement? In other words, does
293 our ordinance impose some kind of a criminal sanction if somebody has a group home that is non
294 compliant? Our Code Enforcement folks, are they supposed to go out and site them criminally or
295 do they come before us for an order to show cause to close the home down?

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296 **JAMES LEWIS**

297 Mayor, it's – that – is correct. So –

298

299 **MAYOR GOODMAN**

300 What is correct?

301

302 **JAMES LEWIS**

303 What is correct is that, there will be Code, it's the usual Code Enforcement process that you are

304 familiar with. We're not criminalizing behavior. It's, what will happen is, if we were to get a

305 complaint –

306

307 **MAYOR GOODMAN**

308 Yes.

309

310 **JAMES LEWIS**

311 – Code Enforcement will go to investigate. That investigation will consist of looking at Planning

312 and zoning records, Building and Safety records, speaking with the folks that operate the home or

313 own the home, determining whether or not they fall within our statutes or outside of them, and

314 then a notice to comply will be issued if they do not comply with the law.

315

316 **MAYOR GOODMAN**

317 All right, let me ask you this, because I'm – trying to cut to the chase here.

318

319 **JAMES LEWIS**

320 Yes.

321

322 **MAYOR GOODMAN**

323 I sense on the part of the Council –

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324 **JAMES LEWIS**

325 Yeah.

326

327 **MAYOR GOODMAN**

328 – or at least those who have expressed themselves thus far, that they really, notwithstanding what
329 the federal government is saying, as defining who is disabled, they don't like the idea of having a
330 group home in a neighborhood where folks who are recovering addicts, who they believe will fall
331 off of the wagon, are part of the neighborhood –

332

333 **JAMES LEWIS**

334 Right.

335

336 **MAYOR GOODMAN**

337 – and that that, they don't want that condition to exist here. So, let's assume that their will is
338 followed –

339

340 **JAMES LEWIS**

341 Correct.

342

343 **MAYOR GOODMAN**

344 – and let's assume that this Council votes against an ordinance to that affect, what happens? Are
345 we in contempt of anything?

346

347 **JAMES LEWIS**

348 We're not in contempt but here – there, there're several consequences that could accrue from
349 either one of three anti discrimination laws. The three laws are the Federal Housing Amendment
350 Act of 1988; that was an amendment to the Fair Housing Act of 1967, which is a part of the Civil
351 Rights Act of 1964. We've got –

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352 **MAYOR GOODMAN**

353 They really don't care much about the civil rights of a drug addict.

354

355 **JAMES LEWIS**

356 Well, so, then you've got the American Disabilities Act and you've got the Federal

357 Rehabilitation Act. So, you've got three different acts to prevent discrimination against the
358 disabled.

359

360 **MAYOR GOODMAN**

361 But how would, and – I'm not arguing with you, I'm just asking you questions, because I know
362 where they're coming from –

363

364 **JAMES LEWIS**

365 I too.

366

367 **MAYOR GOODMAN**

368 – about if they feel that the folks who are living in the neighborhood and one of these group
369 homes poses a danger to the neighborhood, and they don't want to allow that danger to have a
370 potential, and they vote against this. What happens to us?

371

372 **JAMES LEWIS**

373 Well, with regard to the potential threat, there has to be evidence of a threat. So, the –, if you,
374 Mayor, if you would – allow me.

375

376 **MAYOR GOODMAN**

377 That's –

378

379 **JAMES LEWIS**

380 Okay.

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381 **MAYOR GOODMAN**

382 – why you’re here.

383

384 **JAMES LEWIS**

385 Okay. So, I’d like to answer your first question (inaudible) the second.

386

387 **MAYOR GOODMAN**

388 Wait, I’m not trying to kill the messenger here, but –

389

390 **JAMES LEWIS**

391 Right.

392

393 **MAYOR GOODMAN**

394 – but I have to understand the message.

395

396 **JAMES LEWIS**

397 Yes.

398

399 **MAYOR GOODMAN**

400 The message from this Council –

401

402 **JAMES LEWIS**

403 Yes.

404

405 **MAYOR GOODMAN**

406 – as I understand it is, we don’t, if I am reading them right –

407

408 **JAMES LEWIS**

409 Right.

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410 **MAYOR GOODMAN**

411 We don't want folks –

412

413 **JAMES LEWIS**

414 Right.

415

416 **MAYOR GOODMAN**

417 – who pose social problems to be in a group home in our neighborhood.

418

419 **JAMES LEWIS**

420 So – let me, your – first question was –

421

422 **MAYOR GOODMAN**

423 Doing pretty good, but go ahead.

424

425 **COUNCILMAN REESE**

426 If – I can.

427

428 **JAMES LEWIS**

429 Okay. Yes, please.

430

431 **COUNCILMAN REESE**

432 My concern is they don't have to come to the City for anything.

433

434 **JAMES LEWIS**

435 Yes. That's – not, no that's not true. I'd like – to describe –

436

437 **MAYOR GOODMAN**

438 All right. This is what we're gonna do.

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439 **COUNCILMAN REESE**

440 Do they – get a City business license?

441

442 **MAYOR GOODMAN**

443 Let's do this. Let's do this, with all due respect. Let – the poor guy is trying to talk to us and
444 we're jumping on you. Make it, give us your best description of what we're supposed to be
445 considering here and then I'll let them attack you.

446

447 **JAMES LEWIS**

448 Would – you like me to answer your questions, would you like me to answer your direct
449 questions first.

450

451 **MAYOR GOODMAN**

452 No, no, you make your presentation because we've been all over you. Make your presentation
453 and then we're gonna destroy you.

454

455 **JAMES LEWIS**

456 Okay. That's good. Well, at least, I'd like to make the presentation.

457

458 **MAYOR GOODMAN**

459 Good.

460

461 **JAMES LEWIS**

462 Okay. So, here, here's the bottom line. We've had a federal justice court tell us that the –
463 language regulatory process that we use is invalid as a matter of law, that it violates the FHAA.
464 So, what do we do? We, the City Attorney's office, in conjunction with the City Manager's
465 office, reviewed the District Court opinion, reviewed the laws that currently exist, that have
466 existed for a number of years, and decided we need to propose changes because there are
467 consequences that could accrue. Now, what's important to understand, and it's hard for me to
468 stand here and tell you this, but federal law does, in fact, it does in fact, limit this Council's

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discretion to act with regard to the disabled in these homes. Just, the fact of the matter is, the federal law, the federal government, Congress has decided we – see that across the country homes for the disabled are being zoned out of single-family neighborhoods and we're gonna take it upon ourselves, Congress, to pass laws that would supersede, that would preempt state and local action when it's found, when – a law is found to be discriminatory on its face, which means you can read and it looks like we're treating the disabled differently than non-disabled or in effect.

So, what we've got here, we think, staff thinks, is a good balance between the protection of the interest of the disabled and the protection of the interest of citizens, constituents in single-family neighborhoods. So, let me get to the, kind of the details of the proposal.

MAYOR GOODMAN

Good.

JAMES LEWIS

The practical effects of the proposal of this, between one and four related, I'm sorry, with regard to single-family homes, with regard to related folks, you can have as many related folks living in a single-family home, in a single-family zoned area, as our housing code permits. Our housing code permits seven people to be in a SRO, the single-room occupancy unit. Our code permits two more for each additional bedroom. So, with regard to those persons that are related, families, in a five-bedroom house you can have 17 people in the City of Las Vegas. So, our code then, the new proposal says, with regard to unrelated people, so, unrelated folks like college students or people that will reside in a community residence, the cap is four. You can have four or fewer unrelated, whether they're disabled or not, four or fewer, as a matter of law, in a single-family residential zoned district in the City of Las Vegas. Here's the, that's part of the change that we're making.

The next part of the change that we're making is to label between population of five and 10 disabled individuals, not college students, not – blackjack dealers who're living together as roommates. The disabled folks can get as a conditional use in our zoning districts, a community residence. You can have between five and 10 disabled individuals and up to two care givers, as

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499 long as you comply with the conditions of our conditional use. One of the conditions is you must
500 be 660 feet from property line to property line to another community residence. So, we still have
501 a separation. There was some concern that our proposal would come back and say, shouldn't
502 have a separation requirement because the Nevada federal district court judge seemed to indicate
503 in dicta, which means it's not, its language doesn't really apply to the case at hand. But in dicta,
504 seemed to indicate that the correct number for distance relationship is zero. We believe,
505 reasonably, our office believes the intent of the act, I wanna make sure I get this right, but we
506 believe the – intent of the act is to promote inclusion and integration of the disabled within
507 traditional non-disabled neighborhoods. The intent of the FHAA, the Fair Housing Amendments
508 Acts, and a rule where you have a zero foot proximity distance relationship, would not be
509 appropriate because then you could cluster homes, and then the intent of the act to integrate the
510 disabled into traditional non-disabled neighborhoods, goes by the wayside, because you have a
511 cul-de-sac of four, five of these homes. We're gonna use the distance proximity relationship of
512 660 feet to make sure that we follow the intent of the federal law, which is to make sure that we
513 integrate the disabled folks into non-disabled neighborhoods. So, it's – really important that I
514 make that clear for the record.

515 So, we've got five to 10. Eleven or more, this is the one that concerns, well, five to 10 concerns
516 many, 11 or more really concerns folks. There are no changes to our code with regard to a
517 population of 11 or more in a single-family residence. That's a – convalescent care facility,
518 special use permit only in all residential zoning districts. So, I've talked about the distance
519 proximity separation being reduced from fifteen hundred to 660.

520 Lastly, two more things I wanna point out. One, community residences are to be treated as
521 single-family – home for purposes of zoning codes, I mean, I'm sorry, for building codes and fire
522 codes, unless individuals that are disabled are non-ambulatory. And then our code, which goes
523 farther than Clark County's version in 2008, says, our fire chief, our building official may impose
524 those life safety requirements that are necessary to protect these folks in the home themselves.
525 Lastly, our ordinance strikes the business licensing requirement in Title 6 for Group Residential
526 Care Facilities, which is the term that has been used in the state law. The reason for this is two-
527 fold; one case law suggests that separate local – licensing where their state licensing is improper,
528 and two, if we're not licensing a person who rents to the non-disabled, if we don't require a

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529 business license and fee of them, cases say, we can't require the business license and fee of one
530 who rents to the non-disabled.

531 So, let me finish up by saying this, I need to hand to the Clerk a report that was created on behalf
532 of Clark County when they made very similar changes to their code in 2008. I could have drafted
533 a report much like this one, but there was no reason to recreate the will. The annual lobbyist, the
534 person who created this report for the county, is a land-use lawyer. He's a – zoning expert in
535 group homes and he happened to be the past president, a recent past president of the American
536 Planning Association. He – has the AICP designation. If there's an expert in the field, it's this
537 gentleman. Lucky for us, Clark County, we're basing our codes on Clark County's code. This
538 was created to define their code, to support their code, so, the – law says I can use this as support
539 for our – code revision. So, Mayor, I'd like to give this to the Clerk now, for the record.

540

541 **MAYOR GOODMAN**

542 Certainly, we'll make that part of the record. I don't know whether Mr. Lauber lives next to a
543 group home.

544

545 **JAMES LEWIS**

546 So, what I'd like to do now is, I can either sit down, let – the folks come up and – take questions
547 or you, if you wanna just ask me questions now.

548

549 **MAYOR GOODMAN**

550 Are we able to limit the definition of disabled? I'll tell you why. I don't think anybody in this
551 room would have any quarrel with a home where some veteran came back from the war and
552 suffered some horrible injury over there and was living with other veterans who had those
553 injuries. I think, basically, they are concerned about addicts, recovering addicts, if there is such a
554 thing.

555

556 **JAMES LEWIS**

557 Yes.

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558 **MAYOR GOODMAN**

559 Alcoholics, who are recovering, if there is such a thing.

560

561 **JAMES LEWIS**

562 Uh, uh.

563

564 **MAYOR GOODMAN**

565 Those are – things that are bothering them. I, myself, I may not have much objection if a group
566 homes is built outside of a neighborhood because then if other people wanna come into that
567 neighborhood, they'll know what's there. But I have a real problem myself of having a group
568 home under the present definition –

569

570 **JAMES LEWIS**

571 Right.

572

573 **MAYOR GOODMAN**

574 – coming next door to me and – basically, causing me concern about my quality of life.

575

576 **JAMES LEWIS**

577 My answer, Mayor, if I may.

578

579 **MAYOR GOODMAN**

580 Sure.

581

582 **JAMES LEWIS**

583 My answer to that would be, unfortunately, there are, there's decades and decades of federal case
584 law from across the country, every circuit court of appeals, that will tell us that recovering
585 alcoholics and recovering drug addicts, as long as they are not currently using, are handicapped
586 for purposes of the federal anti discrimination laws, period. And so, I would su –

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587 **MAYOR GOODMAN**

588 That – may well be the case, what courts will tell us, but I don't necessarily have to go for it.

589

590 **JAMES LEWIS**

591 You know, certainly, this board has the discretion to do whatever it likes. I am suggesting to you
592 that there is something, you asked the question about consequence.

593

594 **MAYOR GOODMAN**

595 Yes. I wanna know whether we're held in contempt.

596

597 **JAMES LEWIS**

598 May I – answer that, the consequence question now?

599

600 **COUNCILMAN WOLFSON**

601 (Inaudible)

602

603 **MAYOR GOODMAN**

604 (Inaudible) Fine. (Inaudible) Let 'em sue us. Go ahead.

605

606 **COUNCILMAN WOLFSON**

607 We wouldn't be held accountable. Why don't you clarify that, Mayor? I (inaudible).

608

609 **MAYOR GOODMAN**

610 Let him finish, please.

611

612 **JAMES LEWIS**

613 Okay. So, earlier on our conversation, I – define, I told you there were three different laws out
614 there that prohibit us, in our laws, to discriminate against the disabled. These three laws have
615 different consequences. One consequence is we get sued. Right. There's a home out there,
616 there's – an operator of a home that wants to operate a facility, our law doesn't include, for

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617 example, recovering drug addicts. Okay, they sue us in federal court. We lose. Okay. And
618 that's – fine. We lose. What happens? Federal court tells us to rehear the matter and that we
619 must include within the definition of disabled, handicap, recovering drug addicts. Okay. Fine.
620 That's not the consequence that I fear. We pay their attorney's fees, fine. The consequence I fear
621 is that, under the law, one can go without spending a nickel, to Housing and Urban Development
622 and to the Department of Justice, file a complaint that City of Las Vegas, Clark County,
623 Henderson, North Las Vegas laws violate federal anti discrimination laws. Within 72 hours,
624 under the FHAA, an investigation is required to being started. Now, does that mean that we get
625 13 feds down here going through our things that day? No. It means that a letter is going to be
626 issued saying, you're now under investigation for violating federal anti discrimination laws.
627 I don't wanna go, I don't wanna bore you to death with all of the different penalties that could
628 accrue, but what they do is, they do a civil, it's a civil process. They do their investigation and
629 they have the ability to levy civil fines, much like you do in our Code Enforcement cases. We
630 don't go to a judge. We don't argue. They levy them. If they find the violation, the next step, by
631 law, is it goes to DOJ. The Department of Justice then will decide whether or not to sue us. This
632 process I went through in a different jurisdiction in the Valley, not with regard to group homes,
633 but with regard to failure to provide ADA access in government facilities and on sidewalks.

634

635 **MAYOR GOODMAN**

636 I think it's a big difference.

637

638 **JAMES LEWIS**

639 Well, no, what I am saying – is, the investigation from DOJ took 18 months, and at the end of the
640 18-month period, we were told we could be sued or we could do what they want. And my advice
641 to my clients, at that point, was, if we get sued we're gonna have to do what they want anyway,
642 so, my advice to you is, let's not continue to spend money, let's – go ahead, let's do the best we
643 can to negotiate and move on. Two years later, that jurisdiction came out of this cloud from a
644 DOJ investigation. So, the lawsuit is what the lawyers are here to defend. The DOJ
645 investigation, the HUD investigation can be problematic because civil penalties can accrue and
646 frankly, under the Federal Rehabilitation Act, if we're found to be willfully violating the laws,

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647 we can lose all federal funding. That is an extreme consequence. And I'm not telling you today
648 that that would happen upon a first violation, but I can tell you that we have knowledge of the
649 2008 opinion from the federal district court saying that the laws that are in place are violative of
650 the federal law.

651

652 **MAYOR GOODMAN**

653 Right.

654

655 **JAMES LEWIS**

656 If we willfully violate the law by moving forward, we could accrue more penalties than we would
657 if we we're not willful.

658

659 **MAYOR GOODMAN**

660 Well, I wanna do this, from my perspective, then I'm gonna open it up for the Council and for the
661 public, of course, but I think that a, an ordinance if we have to address a district court opinion
662 could be framed to allow any kind of group home to be built x amount of feet away from
663 something else, if it's a first time home there, so people will have notices to what they're buying
664 into a neighborhood. I think that's a fair and reasonable condition to be placed. And I would
665 really like to see a study, as to whether or not recovering alcoholics and recovering dope dealers
666 and dope users, are – not a danger to a community. I – I'd like to do that. I think there's a
667 rationale nexus as to what we're being asked to vote on now to have those questions answered.

668

669 **JAMES LEWIS**

670 There are, Mr. Mayor, there're been plenty of studies already, throughout time.

671

672 **MAYOR GOODMAN**

673 Well, I don't know (inaudible).

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674 **JAMES LEWIS**

675 And I –

676

677

678 **MAYOR GOODMAN**

679 I don't know. I don't like it.

680

681 **JAMES LEWIS**

682 I know, I certainly will, we – certainly can do, we certainly need to do what this Council directs

683 us to do, and we certainly will.

684

685 **MAYOR GOODMAN**

686 Okay. Let me do this. Let me, does the Council want to be heard first or shall we open it up to

687 the public? All right, we'll let the Councilmembers be heard and then we'll open it up for public

688 comment.

689

690 **COUNCILMAN ROSS**

691 May I go first, Your Honor?

692

693 **MAYOR GOODMAN**

694 Go ahead, please. Folks, have a seat. I'll hear you, don't worry about it.

695

696 **COUNCILMAN ROSS**

697 Marshall, have you got several pairs of handcuffs on you? Might as well get a couple for our

698 attorneys too because what I'm hearing is we're handcuffed. What I'm hearing, and I'm gonna

699 simplify this, to the best I can, 'cause I'm not an attorney, so, for us little guys on the Council –

700

701 **MAYOR GOODMAN**

702 Well, what does that mean?

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703 **COUNCILMAN ROSS**

704 I'm losing weight, that's all that means. We, and I don't know how to put this eloquently or
705 softly, but we have a plague in this community that is continuing to grow, and granted there are
706 legitimate facilities that are helping disabled veterans, folks with other disabilities; recovering
707 alcoholics or drug addicts, and there're legitimate homes and businesses doing business in the
708 City of Las Vegas. But what's happened, Mr. Lewis, is there's a lot of 'em out there that are
709 portraying fraudulent behavior and taking advantage of people and nearly quite screwing the
710 neighborhood. I don't know how else to put it. But there are people in our neighborhoods who
711 we represent who can't sell their homes, who can't let their kids go play on the streets, for crying
712 out loud, because of fear of these homes, regardless of what it is, what – group is in there. And
713 that's the problem I'm having, and I feel just like that, handcuffed, because I can't do anything
714 about it because the federal government is allowing these things to happen and not allowing local
715 jurisdictions any say so; Business licensing, special use permits, whatever it is, and – we have to
716 enforce this with our own Code Enforcement folks? It's a joke. It's a nightmare and it's
717 certainly killing me in Ward 6 and hurting the rest of this city. And I know that all the Council
718 wards are affected by this as well.

719 This agendaed item bringing us in line with the County, I don't know if I can say, hey, I can
720 accept that, I can go do that because my attorney is telling me to so we don't get sued. How do
721 we send that message to – the federal delegation? How do we send that message that says, hey,
722 we've got to fix this because it's killing our neighborhoods, it's killing our families. That's what
723 I am most concerned about. And that's the simplified version of it, Your Honor.

724

725 **MAYOR GOODMAN**

726 Anybody else wanna be heard now or shall we hear from the public? All right. Yes, Sir. Let's
727 put a three-minute timer on and see whether we can do with that.

728

729 **KENNY FONG**

730 Yes, I'll be very brief.

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731 **MAYOR GOODMAN**

732 No problem.

733

734 **KENNY FONG**

735 Members of the Council, I appreciate your time.

736

737 **MAYOR GOODMAN**

738 Please identify yourself.

739

740 **KENNY FONG**

741 My name is Kenny Fong. I live on 16th Street; that's in the Mayfair tract, and I appreciate

742 Councilman Reed (sic). Did I pronounce your name –

743

744 **COUNCILMAN REESE**

745 Reese.

746

747 **KENNY FONG**

748 – correctly? Reese, thank you, that he's aware of the problem that exist (sic) in that

749 neighborhood and it's – a slap in the face, really. It's a (sic) immoral, unethical behavior that has

750 been float in your face and it has, and I'm speaking for myself, because I've lived in that

751 neighborhood for almost 28 years, and it has really plummeted. And so, recently, in the papers, it

752 was well publicized that under the guise of the ministries, that these home, and that particular

753 home on 16th Street, has been open to, as a half-way house. Now, I'm not saying that –

754 individual should not help people that are in need, and they (sic) should be a – way in which that

755 the neighborhood should be uplifted. They should contribute what is good, and of course, as you

756 can see that it is not contributed, it has really plummeted.

757 So, what is moral and ethical and when – a ministry, so to speak, under the First Amendment

758 speaks of, they have the right to do under religion that where is the charted purpose, the charted

759 purpose that is a non-profit organization. And so what is evidenced there that is non-profit. It is

760 a profitable group and should there be evidence to show that, if they claim to be such, shouldn't

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761 there be proof of such? Shouldn't they be investigated? And I think it should. And, of course, I
762 understand by the expression of you, Councilman, that certainly that you can see under certain
763 cloak that certain mud in the water, so to speak, and of course conscience can really tell and you
764 can really see behind that that it's – not right and where is the justice. Justice has to do with
765 something that is right, something that is love of your neighbor.

766

767 **MAYOR GOODMAN**

768 All right. Thank you. Let's hear –

769

770 **KENNY FONG**

771 Yes. Thank you, Sir –

772

773 **MAYOR GOODMAN**

774 Thank you.

775

776 **KENNY FONG**

777 – very much for your time.

778

779 **MAYOR GOODMAN**

780 Thank you.

781

782 **COUNCILMAN REESE**

783 If I could –

784

785 **KENNY FONG**

786 Okay.

787

788 **COUNCILMAN REESE**

789 – I need to (inaudible) this guy, please.

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790 **MAYOR GOODMAN**

791 Okay.

792

793 **COUNCILMAN REESE**

794 Sir, my heart goes out – to you, okay.

795

796 **KENNY FONG**

797 Yes.

798

799 **COUNCILMAN REESE**

800 When, was this first brought to my attention and I had Code Enforcement go out there and
801 there're just certain things they can do. Number one, the people have no City license; that
802 bothers me. We can't require them to have a City license. Yes, we can go out there and say, you
803 need to do this, this and this but we can't really enforce it. They don't have a City license. They
804 have a state license, but the state don't (sic) go out there and enforce it. They – don't come out
805 there and look at this and enforce anything.

806

807 **KENNY FONG**

808 It's –

809

810 **COUNCILMAN REESE**

811 We – at this time, we have our hands tied, even – this new – bill we're looking at here today.
812 Yes, we are – copying what the County did, we're – copying something that has been given to us
813 today, as an expert on – these issues and stuff. But what's it do, what good is going to do for you
814 when we have these problems. When another one comes in there, two doors down the street, 660
815 feet, we, and if they wanna sue us they sue us, we're still gonna lose. We're not allowed to put
816 these restrictions on there and I – I respect our attorneys to the utmost. Our hands are tied, even
817 if we pass this, our hands are still tied. We cannot help you unless we get some help from our
818 federal government.

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819 **KENNY FONG**

820 One thing, Mr. Minor (sic), I just want to mention just briefly that, should the federal – law
821 override the – ordinance of the City –

822

823 **COUNCILMAN REESE**

824 It does –

825

826 **KENNY FONG**

827 Should – they do that?

828

829 **MAYOR GOODMAN**

830 It does.

831

832 **COUNCILMAN REESE**

833 It does.

834

835 **KENNY FONG**

836 Who has the –

837

838 **MAYOR GOODMAN**

839 The federal – law takes precedence –

840

841 **KENNY FONG**

842 – say so.

843

844 **MAYOR GOODMAN**

845 – but doesn't mean to say we have to listen to them.

846

847 **COUNCILMAN REESE**

848 The federal – government it – overrides us.

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849 **KENNY FONG**

850 Well, then I'm sure that you Councilmen should be able to test that in the – waters. I thank you
851 for your time.

852

853 **MAYOR GOODMAN**

854 That's what the waters are for. All right. Next, please. Put the three-minute timer on, please.

855 Please give us your name first.

856

857 **LYNN TYNAN**

858 My name is Lynn Tynan. Do you need the address or just, anyway, I am the President of the
859 Nevada Coalition of Recovery Homes. We've been in operation 10 years. Eight years ago this
860 same issue came up, and I totally agree with everybody that there are houses that are not
861 regulated, that do anything they want. We, of the coalition, are very frustrated too because our
862 houses are respectable, they're clean. The one I, I am the Director of has been in operation 50
863 years. We saved thousands of women in this town get their lives together. It came before the
864 County eight years ago. They bumped it up to the state because of the federal regulations. The
865 state also did, the state licensing covering the halfway houses for recovering alcoholic and drug
866 addicts. I am a recovering alcoholic 26 years, Mayor Goodman, and you know that you gave me
867 a proclamation for the Nevada Recovery celebration September 12th because there were thirty
868 five hundred and many, many more in this town that are recovering and are living good lives.
869 We help women and there's (sic) houses for men. We – are frustrated because these other
870 houses, and we know there's houses that – don't regulate them. All the houses that we run are
871 zero tolerance of alcoholics, alcohol or – drugs. If we suspect it, they have to go. The drug
872 addicts do not stay in the good neighborhoods. They go back to their neighborhood where they
873 can get drugs. They don't stick around in a nice neighborhood 'cause they can't get anything, or
874 they end up in jail. We get a lot of referrals from P and P, from CPS, from Metro, from the
875 courts because there are not enough houses. And – I'm not saying these houses, but there's not
876 enough places to refer people. And the good houses are the only ones that are being referred to
877 by these other people. Okay.

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878 Now, we're frustrated too and I don't, I totally agree with you, we don't want these houses that
879 have 24 people than, and they're not regulated well, they have a lot of code, health and safety
880 violations. Ours have regular inspections. We have our own set of codes that the houses in our
881 coele, coalition have to abide by, and many of them that, we, are not in our coalition do not have
882 licensing, and we're frustrated because we can't tell them what to do.

883 Code Enforcement is complaint driven. Now, if any of those residents give a complaint to Code
884 Enforcement, then – Code Enforcement can do something. But a lot of those residents, they
885 won't do that because they're recovering, I mean, they're alcohol, drug addicts when they leave,
886 they're upset, but they're not gonna – do anything. So, it is, it's a catch 22 because we can't give
887 – good houses their reputation and keep them up and we can't do anything about the bad houses.
888 So, you've got two different games here, you're playing, and the federal government protects us.
889 We don't have the money to sue but, if you have to, if we discriminate against alcohol,
890 recovering alcoholics and drug addicts. I made sure that the state and the City, and I wanna thank
891 Mr. Lewis and Lisa Morris and Beverly Goldsen, they worked really hard and put together a
892 really good ordinance. But if – you don't make the same regulations or ordinances for the group
893 homes for seniors or the group homes for Alzheimer's and you just make it against recovering
894 alcoholics, drug addicts, then it is a violation. We don't want to sue. Definitely, I want us all to
895 work together. The coalition also needs some power to be able to do something too, but how
896 we're gonna get it. Right?

897 So it is a very frustrating issue, and I understand Councilman Reese's problem because it does
898 affect the neighborhoods. Our facility has been there with good, clean, house we have,
899 wonderful neighbors. When we get donations we give them to the neighbors. Fifty years and
900 we've been running a wonderful organization. There's, hasn't been one complaint in 50 years to
901 Code Enforcement. So, what are we all to do? Mr. Lewis has worked out a very wonderful
902 ordinance that covers all of it. The only thing that I would like to add to it is that that they have
903 to have licensing, 'cause our, a lot of those bad houses don't have licensing or if they do, they
904 have a license for eight beds and they're putting 24 beds in a house and it's not regulated.

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905 **MAYOR GOODMAN**

906 All right, thank you.

907

908 **LYNN TYNAN**

909 Okay.

910

911 **MAYOR GOODMAN**

912 Yeah.

913

914 **LYNN TYNAN**

915 Thank you.

916

917 **MAYOR GOODMAN**

918 Thank you. Mr. Lewis, did you say that licensing is prohibited?

919

920 **JAMES LEWIS**

921 No, let, I think I need to make this really clear to the Council, at this point. We have – is this on?

922 Okay. Sorry. We have the right to land, regulate land use to a degree. What the courts have said

923 and so let's think about in these two, we've got land use, land use permitting –

924

925 **MAYOR GOODMAN**

926 No, no, I want you to answer my question.

927

928 **JAMES LEWIS**

929 Okay, I, then –

930

931 **MAYOR GOODMAN**

932 It's a simple question.

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933 **JAMES LEWIS**

934 Business license, the answer is Business licensing no, but permitting yes.

935

936 **MAYOR GOODMAN**

937 But we can't – ask for a business license, correct. That's the law.

938

939 **JAMES LEWIS**

940 That's the advice I'm giving you, yes.

941

942 **MAYOR GOODMAN**

943 Okay.

944

945 **JAMES LEWIS**

946 But, I, if you, Mayor, could you let me, I'd like to explain why we're still, let me explain the
947 process then I think this Council will be comfortable that we still are looking in to what it is these
948 – home, the homes with disability are doing and we have conditions –

949

950 **MAYOR GOODMAN**

951 See – our problem is this, we get information –

952

953 **JAMES LEWIS**

954 Yes.

955

956 **MAYOR GOODMAN**

957 – that there're people out there who are abusing the system.

958

959 **JAMES LEWIS**

960 Yes.

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961 **MAYOR GOODMAN**

962 – I’m not talking about yours, operation, you’re running a clean operation without any problem
963 and it’s a good operation, but we hear that there’re con men out there –

964

965 **JAMES LEWIS**

966 Yes.

967

968 **MAYOR GOODMAN**

969 – who are taking food stamps –

970

971 **JAMES LEWIS**

972 Yepp.

973

974 **MAYOR GOODMAN**

975 –in return for renting somebody a room and the people are not abiding to societal standards –

976

977 **JAMES LEWIS**

978 That’s right.

979

980 **MAYOR GOODMAN**

981 – and decency, and we wanna, if we’re going to pass an ordinance, we have to be able to enforce
982 the ordinance.

983

984 **JAMES LEWIS**

985 This ordinance doesn’t apply to that situation at all, at all, period, end of story. I just wanna
986 make this really clear. This has to do with the disabled only.

987

988 **MAYOR GOODMAN**

989 I know, but we’re talk, and the guy who is taking the food stamps is only allowing recovering
990 drug addicts to live with 26 others.

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991 **JAMES LEWIS**

992 And so we would have an ordinance that would describe –

993

994 **COUNCILMAN ROSS**

995 (Inaudible) disabled.

996

997 **JAMES LEWIS**

998 Well, we would have an ordinance that would describe, well we have an ordinance that would

999 describe how he would be permitted to have between five and 10 folks in this facility or –

1000

1001 **MAYOR GOODMAN**

1002 That's – in order to allow him to open it up but then when he starts violating the law and he

1003 allows people there that are disruptive in the neighborhood, we can't require a business license

1004 that we can yank.

1005

1006 **JAMES LEWIS**

1007 Well, the business license –

1008

1009 **MAYOR GOODMAN**

1010 You know, had the colonoscopy clinic not had a business license they still be giving people

1011 hepatitis. That was the only way that we were able to do anything about it, by taking it off his

1012 stupid wall.

1013

1014 **COUNCILMAN WOLFSON**

1015 Mayor Goodman.

1016

1017 **JAMES LEWIS**

1018 They, Mr. –

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1019 **COUNCILMAN WOLFSON**

1020 Mayor Goodman –

1021

1022 **MAYOR GOODMAN**

1023 Yes.

1024

1025 **COUNCILMAN WOLFSON**

1026 – may I please ask a few direct questions for clarification.

1027

1028 **MAYOR GOODMAN**

1029 Go ahead, please.

1030

1031 **COUNCILMAN WOLFSON**

1032 Jim, please, ask the, answer the questions directly.

1033

1034 **JAMES LEWIS**

1035 Yes.

1036

1037 **COUNCILMAN WOLFSON**

1038 Under this proposed ordinance, does somebody have to come to the City to ask for something

1039 and if so, what is it?

1040

1041 **JAMES LEWIS**

1042 The answer is yes.

1043

1044 **COUNCILMAN WOLFSON**

1045 Okay.

1046

1047 **JAMES LEWIS**

1048 And between one and four individuals live in a house, there are permitted use. (Inaudible) –

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1049 **COUNCILMAN WOLFSON**

1050 They're – asking for a conditional, excuse me.

1051

1052 **JAMES LEWIS**

1053 Yes, Sir.

1054

1055 **COUNCILMAN WOLFSON**

1056 They're asking the City to give them a permit, correct?

1057

1058 **JAMES LEWIS**

1059 Between five and 10 in occupancy and 11 and more, yes.

1060

1061 **COUNCILMAN WOLFSON**

1062 And in order for us to give them this permit, which is permission, they have to comply with the
1063 ordinance, which has regulations within it.

1064

1065 **JAMES LEWIS**

1066 Correct.

1067

1068 **COUNCILMAN WOLFSON**

1069 Okay. If they seek permission through a process, to open up one of these group homes, as you've
1070 described, and it doesn't comply with the regulations, we can say no.

1071

1072 **JAMES LEWIS**

1073 Yes.

1074

1075 **COUNCILMAN WOLFSON**

1076 If it does comply, and we say yes but then we learn through a complaint driven process that
1077 there're in violation, we can send Code Enforcement out to do that process. If they're in
1078 violation, we can revoke the permit, correct?

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1079 **JAMES LEWIS**

1080 We, yes, we – can use our Code Enforcement process to stop them from operating. That's
1081 correct.

1082

1083 **COUNCILMAN WOLFSON**

1084 Is that the same thing I said, revoke their permit or –

1085

1086 **JAMES LEWIS**

1087 Very close, yes.

1088

1089 **COUNCILMAN WOLFSON**

1090 Okay. So, there is a process in, okay, that's all I wanted to hear. Thank you.

1091

1092 **MAYOR GOODMAN**

1093 Okay.

1094

1095 **COUNCILWOMAN TARKANIAN**

1096 Mr. Mayor, I don't understand this. First of all, I would like to say, absolutely, the majority of
1097 my professional life was with the disabled. And I understand why some of this has developed the
1098 way it has, because at the time I began working with disabled, they were shunned. They were,
1099 you know, the autistic and the mental retarded and the deaf were put into homes that they called
1100 for the mentally handicapped. So, I understand why we began to want to bring more into society,
1101 and as we became better educated ourselves, we were able to help them. And, but what I don't
1102 understand, and as I, from what I've been told, the state can put a half-way house, they can put a
1103 house for, let's say, recovering alcoholics, recovering drug users, and not even let us know,
1104 because I've asked, can – we at least know if they have this, and we are never told. We had five
1105 houses near Pittman Elementary School, which we were able to be (sic) shut down. They were
1106 able to be shut down because, fortunately, someone in the house told us about things they were
1107 doing wrong, you know, use of electricity, unsafe home situations, so, thankfully, we were able
1108 to shut down those homes. The woman who was involved with those homes was making over

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1109 \$300,000 a year. I don't know if it was five homes or she had some in Councilman Reese's
1110 district, but what I'm trying to say is this is – my objection, we are never told. So, if somebody
1111 comes and says these people are drinking a lot and they're hanging around, we don't know what
1112 the situation is. Why can't we ask the state to let us know? That's the main thing.

1113 And the second thing is, I have no, nothing against recovering or those who have moved from,
1114 you know, drug use and – they moved to improvement, but how do we know that? How, who
1115 does testing to regulate? Who regulates it? Truly these are, and by the way, Jim, you and I have
1116 gone through this for probably a year and a half. And I know how hard it is, and I know the
1117 anger that's been spoken by people in the community and – I know you're not advocating this –

1118

1119 **JAMES LEWIS**

1120 I'm not. No.

1121

1122 **COUNCILWOMAN TARKANIAN**

1123 – you're just trying to tell us the law.

1124

1125 **JAMES LEWIS**

1126 That's right.

1127

1128 **COUNCILWOMAN TARKANIAN**

1129 I am very upset that people on the state, on the Supreme Court or in the federal government who
1130 really don't know the fields that well of those who are recovering, have put this on us because
1131 they don't know what we're faced with. So, that's, those are the questions I'm asking.

1132

1133 **JAMES LEWIS**

1134 Thank you, Councilwoman. Mayor – if I may, I think – what might be helpful is for me to read
1135 into the record what conditions of approval, what conditions these homes would have to follow,
1136 so you understand that there is a regulatory process on behalf of the City.

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1137 **MAYOR GOODMAN**

1138 All right, before you do that, Councilman Anthony had a question.

1139

1140 **JAMES LEWIS**

1141 Sure. Thank you, Mayor.

1142

1143 **MAYOR GOODMAN**

1144 Okay, fine.

1145

1146 **COUNCILMAN ANTHONY**

1147 Councilman Wolfson kinda really got to the rub and – I just wanna be real clear – on this, they

1148 have to, for five to 10, they have to get a permit from the City.

1149

1150 **JAMES LEWIS**

1151 Yes, they – have, they are conditional use. They would have to file something called a
1152 Conditional Use Verification form. It will tell us who operates it, who's to be in the home, how
1153 it will be operated and it will address the conditions that we have laid out in the ordinance, and if
1154 all of those, and if they then comply with all of the conditions, they then are a permitted use at
1155 that point. They then may operate. Let me say this, one of the, and I'll read it later, but one of
1156 the things they've gotta do is get a state license. And this is, Mayor, I was trying to allude to this,
1157 we've got the land use process. We – say you can be here, you can't be here or as limited by
1158 federal law enforcement. The state has the regulatory process, the licensing pro, process. How
1159 you operate these homes, who can operate them, the background checks of the – operators have
1160 to go through. So, in order to get a conditional use permit, you've gotta – go to the state and get
1161 licensed first. And, so, and – what I'd like to do, though is go through the conditions just to –
1162 kinda of explain the Council what kind of regulations that we have for those homes between an
1163 occupancy of five to 10.

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1164 **COUNCILMAN ANTHONY**

1165 And – Jim, just to clar – I’m glad you’re gonna go through that ‘cause I wanna hear, but those –
1166 are the conditions that, if they say they said them and they got the permit and they’re up and
1167 running, those would be the conditions that we will use to regulate –

1168

1169 **JAMES LEWIS**

1170 Yes.

1171

1172 **COUNCILMAN ANTHONY**

1173 – that particular home in order to, if they violate a condition, then we can pull the permit and then
1174 they can’t operate the home any longer.

1175

1176 **JAMES LEWIS**

1177 Correct.

1178

1179 **COUNCILMAN ANTHONY**

1180 – any longer. Correct?

1181

1182 **JAMES LEWIS**

1183 If they’re – no longer, if they’re a conditional use, and they don’t comply with the conditions,
1184 they’re not allowed to be where they are. And therefore, Code Enforcement can go out and shut
1185 them down. Part of our – issue, frankly, is enforcement. It’s difficult to enforce, right? And so,
1186 I think that Dr. Lisa Morris and her people are gearing up to enforce. I’m not gonna talk on her
1187 behalf, but we are complaint driven system and we need to know where they are. Once we do,
1188 they do a very good job of, one, finding out who’s operating. Do they have a state license? Are
1189 they – permitted as a matter of law where they are? And if they’re not, we take action just like
1190 we take action on the homes that are falling in disrepair.

1191

1192 **COUNCILMAN ANTHONY**

1193 So, I guess with that (inaudible) –

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1194 **MAYOR GOODMAN**

1195 Which we – haven't been able to close down, after asking for 11 years for authority to be able to
1196 rectify the problem, our attorneys haven't been able to give us an answer.

1197

1198 **COUNCILMAN REESE**

1199 Your Honor, If I could, please.

1200

1201 **MAYOR GOODMAN**

1202 That's only been 11 years.

1203

1204 **COUNCILMAN REESE**

1205 If I could, Your Honor. I'd – like to talk to Trina, please. If I could, Lisa?

1206

1207 **MAYOR GOODMAN**

1208 I couldn't help myself. Yeah, we're trying to get there. Fine, let's do the conditions.

1209

1210 **COUNCILMAN REESE**

1211 No, just, I –

1212

1213 **MAYOR GOODMAN**

1214 Okay. Mayor Pro Tem.

1215

1216 **COUNCILMAN REESE**

1217 Ms. Morris? Dr. Morris? Okay, this problem we have down on 16th Street, the first gentleman
1218 alluded to. This was first reported to us over a month ago. Are they still in business today?

1219

1220 **LISA MORRIS-HIBBLER**

1221 I'm not sure, but probably so.

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1222 **COUNCILMAN REESE**

1223 Probably so. They – are. And I – have asked, (inaudible). I talked to two, I talked to Devin and
1224 Tony yesterday, and it's, they, maybe we can but we haven't. That's – why I wanted you to come
1225 up first, is I'd like you to sit down and think about it, why. Why are these people still in
1226 operation today operating like they are?

1227

1228 **LISA MORRIS HIBBLER**

1229 I can answer now, if that's okay, Mayor.

1230

1231 **MAYOR GOODMAN**

1232 Certainly.

1233

1234 **LISA MORRIS-HIBBLER**

1235 Okay, members of the Council, Lisa Morris-Hibbler, Deputy Director, Neighborhood Services
1236 Department. As Jim was stating, it is often difficult for us to close these homes down. I mean,
1237 part of it is, we have to be able to get in. And as Dan knows, and the attorneys that we've
1238 worked with, a lot of time you have to get an administrative warrant in order to get inside of the
1239 home to do our investigation. Once we do the investigation and we get all the evidence that we
1240 need, then we can proceed. One of the things that will help with the ordinance is it will make it
1241 clear; before we were running in circles. Is it a business license issue or is it a planning and land
1242 use zoning issue.

1243 So, our staff would constantly be going in circles and having to go get information from Building
1244 and Safety, Fire. Sometimes it was a fire issue. So, this at least is making it clear as to what the
1245 process is. So, if you have a person that is operating a business, so it's five or more, our staff
1246 will know exactly what to do and the process will be a lot simpler. We can go in and we can go
1247 through an investigative process, and then move forward with closing them down. Now, we
1248 have been successful in closing some, as Councilwoman knows, that we worked very hard with
1249 the (inaudible). I know, Coun, Mayor Pro Tem, we worked with you too.

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1250 **COUNCILMAN REESE**

1251 No, oh, no.

1252

1253 **LISA MORRIS-HIBBLER**

1254 But sometimes, it's been difficult.

1255

1256 **COUNCILMAN REESE**

1257 We have – closed them down in my Ward, also.

1258

1259 **LISA MORRIS-HIBBLER**

1260 Absolutely.

1261

1262 **COUNCILMAN REESE**

1263 I'm saying, there – is problems that we face and the people here, we find out because of
1264 complaints, they – didn't have permits.

1265

1266 **LISA MORRIS-HIBBLER**

1267 Right. And one of the things Mayor Pro Tem, if I may, since we've been researching and coming
1268 to you with a proposal, we have not been shutting the establishments down unless they are code,
1269 life and safety violations. And a part of that was that we did not want to get into additional
1270 problems by violating, possible violations of the – Federal Fair Housing law. So, if it was
1271 something that was life safety, we were immediately addressing that. So, I want to make it clear
1272 that (inaudible).

1273

1274 **COUNCILMAN REESE**

1275 Okay.

1276

1277 **MAYOR GOODMAN**

1278 Mr. Lewis, could you answer Councilman Anthony's request?

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1279 **JAMES LEWIS**

1280 Yes, Mayor, thank you very much. Okay, so, if you'd like to follow along, we're on Page 4 of
1281 the – proposed amendment, and what I'm gonna do is, I'm just gonna kinda of start in the
1282 middle. But one thing, I'm gonna read the conditions but I'm also gonna read you, specifically,
1283 what aren't community residences because, I think, there's some confusion here amongst folks
1284 out in the com, our constituents, and maybe, up on the dais.

1285 The use of a family community residence and a transitional community residence does not
1286 include any of the following: a senior citizen apartment, an adult day care center, a convalescent
1287 care facility, slash, nursing home. That's the one of 11 or more people. A facility with
1288 transitional living for released offenders. It doesn't include ex-cons. A facility that provides
1289 testing, treatment or counseling for drug and alcohol abuse, a hospice, a sex offender counseling
1290 facility, a boarding house or a rooming house, any other group living arrangements for unrelated
1291 individuals who are not disabled or any of the following as defined by NRS Chapter 449;
1292 facilities for the treatment of drug and alcohol abuse, modified medical detoxification facilities,
1293 transitional living facilities for released offenders, facilities for the treatment of narcotics or
1294 community triage centers. None of those are covered by this ordinance. We have separate, either
1295 prohibitions or use permissions, for any of those establishments.

1296 Here are the conditional use regulations from between a community residence with a population
1297 between five and 10. Except as otherwise regulated, provided in regulations two and three, a
1298 community residence may not be located closer than 660 feet to any other community residence
1299 measured from property line to property line. Where there is a street, number two, where there is
1300 a street, freeway or drainage channel at least 100 feet wide between the proposed community
1301 residence an existing community residence, the minimum separation requirements from these
1302 two, 100 feet from property to property line. When the population of a proposed community
1303 residence is of such a nature that its location must be kept confidential for it to function
1304 successfully, such as a community residence for victims of domestic abuse, the minimum
1305 separation requirements set forth in regulations one and two should not apply. A maximum of
1306 two persons who function a facility, as facility operators support staff, may reside in a
1307 community residence without being counted towards the 10 residents limit established for that

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1308 use. Resident/operator, slash, support staff in excess of two shall be counted towards the 10
1309 person limit. And – here come the actual regulations.

1310 A community residence shall comply with all public, health safety requirements, including all
1311 building and fire code requirements for the dwelling type in question. If a federal or state law or
1312 regulations require the proposed community residence to be licensed or certified, the applicant
1313 must obtain that required license or certification before commencing operation of the CR. They
1314 gotta go to the state first. If we find, if we go on a comm., on a call, our Code Enforcements go
1315 on a call, find out they're not operating under the state license, we immediately going to issue a
1316 Notice to Comply.

1317 If federal, okay, when located in O, C-1 or C-2 zoning district, a community residence may not
1318 be established unless it is – part of a mixed-use development. The operator of a transitional
1319 community residence, that's for the recovering alcoholics and drug addicts, must require
1320 residents to be actively and continuously enrolled in an off-site support program, including,
1321 without limitation, Alcoholics Anonymous or an equivalent program or a rehabilitation program
1322 such as one supervised by a medical professional or recognized treatment. The operator must
1323 prohibit the use of alcohol and illegal drug use by residents, and the operator must, upon request
1324 and with reasonable notice, provide, produce satisfactory evidence, evidence satisfactory to the
1325 director or the Code Enforcement manager, that residents are in compliance with this regulation.

1326 Next one. Occupancy within a community residence shall not be made available to any
1327 individual whose tendency would constitute a direct threat to the health and safety of individuals
1328 or would result in substantial physical damage to the property of others. The fact that a person is
1329 sentenced or referred to TCR, Transitional Community Residence, by a judge, does not, without
1330 other evidence of a person's actual danger to other persons or property, establish that the person
1331 is a direct threat to the health and safety of others. The community residence must be consistent
1332 with the scale and architectural character of the neighborhood. This one is important. If
1333 somebody buys an empty lot, builds themselves what looks to be a commercial clinic in the
1334 middle of a residential neighborhood, they may not operate in a single family neighborhood.
1335 The special use permission, this next one, the special use provisions shall not apply to regulations
1336 five through 10 above. That means you can't change regulations five or ten with a special use

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1337 permit. These regulations have to stay no matter what; you can't use the special use permit and
1338 come ask you guys for relief.

1339 Okay. In the case, and this is the next one, in the case of a special use permit application that's
1340 filed as a consequence of not qualifying for a conditional use treatment under the 660 foot
1341 proximity distance relationship, the application must be approved, unless the Planning
1342 Commission or City Council determines that one or the more, one – or more of the following
1343 conditions would occur in the community. The building would, the building could be occupied
1344 as a CR would be established or modified in the manner that it would make it inconsistent with
1345 the scale and architectural neighbor, character of the neighborhood. The proposed community
1346 residence, together with existing community residences would alter the residential character of
1347 the neighborhood by creating an institutional atmosphere through the concentration of CRs on a
1348 block or adjoining blocks. That's – the, that's one of the important ones. If someone comes in
1349 and says, I'm 300 feet from another community residence, I want a special use permit; you have
1350 to grant it to me. The answer is, if we think you're creating an institutional atmosphere in our
1351 single-family neighborhoods, the answer is no, and I can reasonable defend that in federal court.
1352 Lastly, the application of a community residence does not or would not comply with regulations
1353 five through 10 above. So, if the community residence hasn't gone to the state first and received
1354 its licensure, we don't license them. We don't give them the special use permit, and we don't, it
1355 is unlikely that we lose, at a federal level, if we reject for not having state licensure. So, those are
1356 the conditions.

1357

1358 **MAYOR GOODMAN**

1359 All right. One last question from me.

1360

1361 **JAMES LEWIS**

1362 Yes, Sir.

1363

1364 **MAYOR GOODMAN**

1365 Can we require a City business license?

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1366 **JAMES LEWIS**

1367 The answer is yes. You can require, this Council has the discretion to do what it wants,
1368 absolutely, we can add that in. My – question would be this. If we can use Code Enforcement to
1369 – enforce these regulations, does – it do us more good to just have another enforcement
1370 mechanism? So, is – the question?

1371

1372 **MAYOR GOODMAN**

1373 No. My – feeling is that if we’re going to have these kind (sic) of facilities, we should require a
1374 business license, and, if in fact, we feel that the person, who is collecting the food stamps, as his
1375 payment, is not deemed worthy of having a business license, then we can reject it. And I don’t
1376 want to rely on the state for that kind of judgment. They’re up in Carson City; they don’t know
1377 what’s happening here.

1378

1379 **COUNCILMAN ROSS**

1380 Mayor, and if I may.

1381

1382 **COUNCILWOMAN TARKANIAN**

1383 And Mr. Mayor?

1384

1385 **COUNCILMAN ROSS**

1386 I don’t think, Mr. Lewis, are you being genuine with us because, so we – require a business
1387 license of all these facilities, what if they don’t, what if we deny somebody one, they can still
1388 operate under state law, under federal law, without our blessing of a business license. Am I
1389 correct?

1390

1391 **JAMES LEWIS**

1392 That, that’s the point – that I have been –

1393

1394 **COUNCILMAN ROSS**

1395 – trying to make –

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1396 **JAMES LEWIS**

1397 – trying to make. It's not that I haven't been genuine, it's that I've been trying – to make the
1398 point that if we – treat, the – law says, not Jim says, the law says, if – we treat the operator/owner
1399 or the disabled folks in a home differently than the non-disabled, so, if we require a business
1400 license over here for the disabled or the owner of the disabled home, and we don't, for the owner
1401 of a person, oh well, for the owner of a home that is rented to the non-disabled, we are likely to
1402 have problems in federal court. That's – my advice to you. I will tell you that we can, we –
1403 could – pass this ordinance and you can tell us, we're gonna pass the ordinance but we're gonna
1404 strike – your provision. We're gonna strike the proposed provision that would strike the Title 6
1405 Business License Requirements, and we could – move on from there.

1406

1407 **MAYOR GOODMAN**

1408 Okay. Thank you. Let's hear from the public. And folks, we're still in our morning agenda.
1409 We're not under any circumstances, we're not gonna be able to get to the afternoon agenda
1410 before, I'd say two thirty. There's just no way we're gonna make it, just wanna advise you of
1411 that in case you wanna use your time. I hope we'll be able to start the afternoon at two thirty.
1412 And also for the gentleman, who wanted to speak to us later on, I'm sorry, but we haven't taken a
1413 break and we're still in the morning.

1414

1415 **COUNCILWOMAN TARKANIAN**

1416 Mr. –

1417

1418 **MAYOR GOODMAN**

1419 Yes, go ahead, Sir.

1420

1421 **LEX ANDERSON**

1422 Real quick. Thank you, Mayor Goodman and Councilmembers, thank you very much. Lex
1423 Anderson, 3709 Water Hose Street, with the NORA, Northwest Area Residents Association, we
1424 (sic) intimately familiar with this. It's really good to see that you guys get it. It's really good to
1425 hear this. We've heard Jim's presentation three times now, so we've internalized it and – it's

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1426 fascinating how the federal government has been prob, problematic and it's problematic for you
1427 guys, all of this. I just want to say that we appreciate the work and effort that the City Attorney
1428 (sic), Jim Lewis and Assemblywoman Marilyn Kirkpatrick are doing, on behalf of our
1429 community, regarding the issue of neighborhood group homes. The reality is that group homes –
1430 are a business largely paid for by the taxpayers. Too many of these facilities are problematic, not
1431 only because of the teen population, they bring their culture with them, but the deficiencies and
1432 supervision of management, and some of 'em are illegal. The result is too often there's a very
1433 negative effect on a neighborhood and community culture.

1434 Jim and Marilyn are working with us to this end. We appreciate it but a lot work needs to be
1435 done. The public deserves a voice in this program. You know, we've got a, we have a foster
1436 care home in our area that just got denied use for three facilities that they run. There're gross
1437 problems and they're back in business again. We've got two problematic teen group homes that
1438 are within a stone's throw from each other that's problematic as it is. We can go on and on with
1439 this kind of stuff, but we appreciate your efforts for this – that's, thank you very much.

1440

1441 **MAYOR GOODMAN**

1442 Thank you. Yes, Ma'am.

1443

1444 **MARY KREMER**

1445 Hi, Mary Kremer, 5209 West Gilmore Avenue, I am with Lex, part of the NORA Residents
1446 Association. Just to echo kind of what – Lex was going down and what Steve has – said as well.
1447 You know – we as – constituents, we're screwed. The federal government has just given it to us
1448 in a big way and given it to you guys. You know, you, we've got no recourse, basically, to –
1449 handle this. Now, maybe we try and regulate the crap out of 'em. Make 'em go through hoops
1450 multiple times to get to be able to do these things. Make it uncomfortable for them; make the
1451 process just unbearable. I don't know but this just needs to get under control. I don't have a
1452 problem with 'em in my area, to a large degree. The problem, like a lot of you folks have said, is
1453 enforcement. We're tied there. You guys are just handicap there. Nobody can enforce what's
1454 going on. It's run at the state level; nobody is enforcing it. So, we're screwed. We need to have
1455 the ability to have these homes to help these people but they can't run rapid. They can't be

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1456 deteriorating neighborhoods. They can't be having their friends over and causing problems in the
1457 neighborhoods. They may be really good run facilities, like this gal says, but what do they draw
1458 to the neighborhood. That's what needs to be controlled as well. There's (sic) a lot of areas to
1459 this, they all need to be considered and you – folks need to listen to the constituents. We need to
1460 get to the state people, we need to get to the federal people, and we need your help in doing that
1461 too. So, thank you.

1462

1463 **MAYOR GOODMAN**

1464 Next, please.

1465

1466 **COUNCILMAN WOLFSON**

1467 May I please ask one question real quickly?

1468

1469 **MAYOR GOODMAN**

1470 Yes, Sir.

1471

1472 **COUNCILMAN WOLFSON**

1473 A yes or no. Jim, is this a time sensitive matter? Do we need to take action today or if we
1474 decided to hold it for further review, study, whatever you wanna call it, is that a, is that a
1475 problem?

1476

1477 **JAMES LEWIS**

1478 It's not a problem. Mr. Mayor, if I may.

1479

1480 **MAYOR GOODMAN**

1481 Sure.

1482

1483 **JAMES LEWIS**

1484 No, it's not a problem. We – encou, December 2008, we encountered a national group who was
1485 willing to file suit against the City at that time, and so it's been about 18 months. They told me,

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1486 the last time I talked to them three months ago, four months ago, that, you know, they – were
1487 getting to the end of the period in which they'd wait, but the fact of the matter is, if you direct us
1488 to wait and do more study, then that's what we're gonna do.

1489

1490 **MAYOR GOODMAN**

1491 Okay. Yes, Sir.

1492

1493 **TODD FARLOW**

1494 Thank you. Todd Farlow, 240 North 19th Street. Two questions: Number one, how close do we
1495 work with the state licensing authorities? Number two, on the state application, do they have to
1496 put the address of – where they're gonna operate the home or do they just get a license and then
1497 go find a place?

1498

1499 **MAYOR GOODMAN**

1500 All right. Who can answer that question?

1501

1502 **JAMES LEWIS**

1503 Mr. Mayor, I can answer.

1504

1505 **MAYOR GOODMAN**

1506 Very good.

1507

1508 **JAMES LEWIS**

1509 Thank you, Mr. Mayor. The – answer is to question number two first, yes, they need to identify
1510 the exact address in which they're going to be licensed. The license is not for the person, it's for
1511 the address. The first question –

1512

1513 **TODD FARLOW**

1514 How – close do you work with the –

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1515 **JAMES LEWIS**

1516 Oh, well, the – fact of the matter is, the state has, state law issues us the land use program, they
1517 do the licensing. I don't think the City has been working in great concert with the state, it's all
1518 BCQC to this point, but I would suggest that would be good that on a monthly or quarterly basis,
1519 that the City write them a letter saying give – us a list of all the licenses that you've issued.

1520

1521 **COUNCILWOMAN TARKANIAN**

1522 Mr. Mayor?

1523

1524 **MAYOR GOODMAN**

1525 Yes.

1526

1527 **COUNCILWOMAN TARKANIAN**

1528 And that's a key point. For years I've been trying to get from the state when they're gonna put
1529 such type of a home within our City, and they don't tell us. Now, is it our responsibility to have
1530 to write them every month and say what homes have you put in? Shouldn't there be some
1531 responsibility on their part that they tell us because they are to have the exact address. They
1532 never share that with us.

1533

1534 **COUNCILMAN WOLFSON**

1535 Is it a public record? I mean –

1536

1537 **COUNCILMAN ROSS**

1538 Mr. Mayor?

1539

1540 **MAYOR GOODMAN**

1541 Yes.

1542

1543 **COUNCILWOMAN TARKANIAN**

1544 Is it a public record we could – right –

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1545 **JAMES LEWIS**

1546 It is – a public record. There would be a legal question as to whether or not gathering and
1547 disseminating, disseminating that information would be a violation of federal law. I just, it's just,
1548 I'm sorry to put it that way, but there would be so, there would be those that would claim that
1549 you're not, you don't treat single family traditional, non-disabled residents this way. You can't
1550 but, I would say is this, we should talk to our legislators in the next term about, if this is where
1551 the Council wanna go, making a change to NRS 449 to require the state to issue that letter to us
1552 on a monthly or quarterly basis.

1553

1554 **COUNCILWOMAN TARKANIAN**

1555 And that would be a good idea, except the way things are going on the federal level now, I don't
1556 know how long it would take to get something like that passed. So, the next step is this, why
1557 can't we require, as some of us up here have recommended, why can't we require that they have
1558 a business license? It's a business. Somebody's operating it, somebody's benefiting, money-
1559 wise, from it. Why couldn't we do that, then we would know, and then we could control better,
1560 couldn't we?

1561

1562 **JAMES LEWIS**

1563 Mr. Mayor?

1564

1565 **MAYOR GOODMAN**

1566 Yes.

1567

1568 **JAMES LEWIS**

1569 If I may?

1570

1571 **MAYOR GOODMAN**

1572 Certainly.

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1573 **JAMES LEWIS**

1574 The – my –

1575

1576 **COUNCILWOMAN TARKANIAN**

1577 Well, we do though. It's a business operating in a residential area.

1578

1579 **JAMES LEWIS**

1580 My review of the case materials is this, we would be, we would, virtually, be the guinea pig in
1581 federal litigation with regard to whether these residential facilities are businesses or residential
1582 facilities. The, unfortunately, or fortunately, whatever side you're on, the federal law is anti-
1583 discrimination law. That's – the basis of the law, and the law wants us to treat everybody
1584 equally. So, one thing that I have mentioned to City management, one thing that I've mentioned
1585 to the people that were together thinking about how to change these laws is, can we, (inaudible)
1586 business licensing, should we license, should we require a business license of all people that own
1587 rental homes, because if we did that, then guess what, the folks that are renting to the disabled
1588 would also have to get a business license. One of the issues really is, if you've got an owner of a
1589 rental home, that rents to the non-disabled, and we don't license that individual or that company,
1590 maybe at 600 homes, there – would be judges that would be inclined to rule that you're treating
1591 the disabled and those that are – working with the disabled differently.

1592

1593 **COUNCILWOMAN TARKANIAN**

1594 But the thing is, isn't there a difference between renting your home, because you have to leave
1595 town or something, you as a person, renting your home, and you as a person operating a
1596 business? When you're not just renting to one family, you're doing it because each person that
1597 you're letting into the home gives you money as – a business.

1598

1599 **JAMES LEWIS**

1600 I under –

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1601 **COUNCILWOMAN TARKANIAN**

1602 Isn't there a difference?

1603

1604 **JAMES LEWIS**

1605 Mr. Mayor, if I may. I understand the argument completely and that's the argument I would
1606 make in federal court, if we – proceed with the business license, absolutely. We would –
1607 establish these – are not, we would try to establish that these are not residential facilities and they
1608 are in fact businesses and under (inaudible) Ambler – Realty, we have – the right to decide, on
1609 our zoning districts, where uses are proper, whether improper. We'd make all the right
1610 arguments, and then it would come down to, there are no cases that I found that hold that these
1611 facilities are businesses.

1612

1613 **COUNCILWOMAN TARKANIAN**

1614 Well, then –

1615

1616 **JAMES LEWIS**

1617 They hold the opposite.

1618

1619 **COUNCILWOMAN TARKANIAN**

1620 – they're operated, if I rent my house, I'm not getting each person to have to pay me money for
1621 services I'm supposed to provide for their needs, to me, would have at least a decent chance
1622 there.

1623

1624 **JAMES LEWIS**

1625 Yes.

1626

1627 **MAYOR GOODMAN**

1628 Councilman Anthony.

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1629 **JAMES LEWIS**

1630 It's very frustrating. Believe me.

1631

1632 **COUNCILMAN ANTHONY**

1633 Thank you, Mayor. I guess what I'm hearing here is from Mr. Lewis is, we, I mean, we have to
1634 comply with federal law, I mean, that's what you're basically telling us, right?

1635

1636 **JAMES LEWIS**

1637 Yes, Sir.

1638

1639 **COUNCILMAN ANTHONY**

1640 But, what –

1641

1642 **JAMES LEWIS**

1643 I'm not saying, I am suggesting that you comply with federal law.

1644

1645 **COUNCILMAN ANTHONY**

1646 Yeah, but what the lady that was up here just a minute ago, I think she hit the nail on the head, is
1647 maybe we need to ensure that we have adequate regulations in place to make sure we don't have
1648 trouble with these homes and maybe these are not enough. And maybe we need to, like
1649 Councilman Wolfson said, maybe we need to step back and look at are there other regulations
1650 that we could put in place, like for example, I mean, you have in here most prohibitive use of
1651 alcohol and illegal drug by residents. Can we mandate that they take a drug test? Those are the
1652 things that we need to look at. And this – lady over here, I've never met you before, but you
1653 were mentioning that you're head of an association or something of group homes, maybe these
1654 homes need to be certified by an organization, 'cause I know a lot of times in order to be certified
1655 by something, you have to be certified by an organization and since she's never had any trouble,
1656 maybe that's something that we could include as a regulation. I don't know but I think maybe
1657 that needs to be shaken out a little bit.

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1658 **MAYOR GOODMAN**

1659 All right. Let me – hear from this gentleman. Yes, Sir.

1660

1661 **DENNIS WINSLOW**

1662 Good afternoon, Mayor and members of City Council, my name is Dennis Winslow. I live at

1663 4408 St. Andrew Circle. In July of 2007, I tried to get a business license from the City of Las

1664 Vegas and was told that I didn't need one.

1665

1666 **MAYOR GOODMAN**

1667 For what kind of facility?

1668

1669 **DENNIS WINSLOW**

1670 For a women's house, recovery house. Okay. We do not offer treatment. We offer a safe place

1671 for women to live. I was told that I didn't need a business license. I have a state business license

1672 for the corporation that rents the house from me and this house is in my backyard. We drug test

1673 weekly. Any resident that is found that is in violation of that is asked to leave now, and they are

1674 not allowed to stay. You know, we have a whole set of house rules. I am the landlord of the

1675 Oxford House that Mr. Lewis has been talking about, and I'm with, we are chartered from

1676 Oxford House. So, we have rules that we have to abide by from Oxford, along with the rules that

1677 we set up. And my wife is in that house every day because we don't want problems with the

1678 neighbors.

1679 I spent hours in Business Licensing (sic) with Mr. DiFiora (sic) and Carol Meyers (sic) trying to

1680 figure out, I even offered to pay room tax, okay, and I was turned down. I tried to bring solutions

1681 to the – licensing department before this ever got started, you know. I don't have a lot of money

1682 and I don't make any money on my business. I lost \$50,000 in the last two years because not

1683 everyone pays their rent, but I offer them a safe place to stay. Where're these people supposed to

1684 stay, underneath the bridge at D Street? Or do they want to stay in the jails? We have to have

1685 some place for these people to go. Would you mind me being one of your neighbors? I am a

1686 recovering addict of 22 years, okay. This is something that I'm trying to give back to the

1687 community and I get shot down and fought with every place I go. This has been such a

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1688 frustrating experience all the way through, and I get doors because this group doesn't know what
1689 this is doing, you know, Neighborhood Services doesn't know what this is doing, Code
1690 Enforcement doesn't know this, Building and Safety doesn't know this. There's such a modge-
1691 podge (sic), and Jim has done such a great job of trying to get it all together so that there is a
1692 common place to start with, so that people like myself who are trying to do something good for
1693 the community and bring something to the community, I don't mind if I have to have a business
1694 license. I have a business license for my own business, and it's a home-based business. You
1695 know, I don't mind that, but the problem is, that there's gotta be some consistency from the State,
1696 to the County, to the City, so that this stuff, kind of conversations don't occur and continue.
1697 Thank you for your time.

1698

1699 **MAYOR GOODMAN**

1700 Thank you. Anybody else like to be heard?

1701

1702 **COUNCILMAN BARLOW**

1703 Mayor Goodman?

1704

1705 **MAYOR GOODMAN**

1706 Yeah, let's – hear from the public and then the other Councilmembers can be heard, then we'll
1707 hear from the counsel.

1708

1709 **BRUCE BONGARDT**

1710 Mayor Goodman and Council, my name is Bruce Bongardt, basically, as you may know, I'm
1711 actually here for another reason, but I'm a mechanical engineer by trade. The reason why I'm
1712 coming up here is, the way in which I think, as a mechanical engineer, I kind of take things and
1713 look at 'em, maybe a little bit differently. I see that you all are talking about permits and licenses
1714 for a business and you're talking about homes, has – there been any endeavors or any kind of
1715 look at, looking at things from more of a registry individual personality perspective, where
1716 individuals, the individuals that would be in these homes would actually be taking a look at. And
1717 in some sense, kind of ranked and then based on that –

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1719 **MAYOR GOODMAN**

1720 No, no, there's –

1721

1722 **BRUCE BONGARDT**

1723 – it would then be delivered to –

1724

1725 **MAYOR GOODMAN**

1726 – there's nothing like that.

1727

1728 **BRUCE BONGARDT**

1729 – a kind of evaluation.

1730

1731 **MAYOR GOODMAN**

1732 No, we don't have money for it either, even if it was legal. All right. Now, Councilman Barlow?

1733

1734 **BRUCE BONGARDT**

1735 Thank you.

1736

1737 **MAYOR GOODMAN**

1738 Why don't you be heard, then Councilman Ross and then Ms. Fretwell.

1739

1740 **COUNCILMAN BARLOW**

1741 Thank you, Mayor. First and foremost, Mr. Lewis, I want to thank you and Dr. Hibbler and the

1742 entire Code Enforcement staff and all the departments that participated in this ordinance that you

1743 brought before us here today. You all have been working on this for quite some time because of

1744 the need and because of the problems that continue to occur in all of our Wards. There is a major

1745 concern from residents and we, as a Council, we are trying to figure out how to respond to it.

1746 And so, for that, this ordinance that you brought forward is – a move in the right direction to –

1747 accomplish that.

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1748 The questions that I have is going back to the term that you used, the federal government term, in
1749 dicta, which, if I'm understanding it correctly, in dicta, the in dicta law would prefer to see the
1750 distance at zero separation between uses, such as what we're discussing here today. Is that
1751 accurate?

1752

1753 **JAMES LEWIS**

1754 Mr. Mayor, if I may. Yes, the – federal district court judge that wrote an opinion opined, but not
1755 directly, that's what dicta is, that it's probably discriminatory to have any distance separation
1756 requirement. And so –

1757

1758 **COUNCILMAN BARLOW**

1759 And that came from his ruling, correct?

1760

1761 **JAMES LEWIS**

1762 Yes.

1763

1764 **COUNCILMAN BARLOW**

1765 Okay. So, you also used the term, Mr. Lewis, or made the statement that you are suggesting to
1766 this Council that we follow the federal law. Your suggestion was that we, as a Council, follow
1767 the federal law. Is that accurate?

1768

1769 **JAMES LEWIS**

1770 Yes.

1771

1772 **COUNCILMAN BARLOW**

1773 Okay. Then my next question is, then why within this ordinance you would suggest a separation
1774 of 660 feet from property to property, if in fact, you are suggesting on one hand that this Council
1775 follows the federal law and the federal law came down as far as the dicta terminology
1776 representing zero for that separation, and you, on the other hand you're suggesting that this

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1777 Council move forward with the, 600, 660 foot separation. So, to me, that's speaking out of both
1778 sides of your mouth. So, help me understand that.

1779

1780 **JAMES LEWIS**

1781 Certainly, Mr. Mayor. Two things: one, when I talk about dicta district court opinion, what that
1782 means, specifically, is that it doesn't have any precedential value on the next case that comes by.
1783 There are – case, federal law cases from back East that utilize the argument that I made earlier to
1784 justify a reasonable distance separation relationship. And those cases focus on the intent of the
1785 federal, it's the Fair Housing Amendments Act, which says clustering of group homes is bad,
1786 clustering of the disabled is bad, it's dispersing the disabled in traditional non-disabled
1787 neighborhood, is good. And so, what I'm saying is, to balance this is, basically, this ordinance
1788 here is a balance between your – constituent (sic) concerns and your very reasonable concerns for
1789 your constituents and federal law. It would have been easy for me to say, you know what, federal
1790 law says zero. That's not an appropriate balance, I believe, for your constituents and because I
1791 think I can make a reasonable argument in front of a federal court that 660 foot (sic) is legal, then
1792 I'm willing to do so on behalf of this Council.

1793

1794 **COUNCILMAN BARLOW**

1795 Okay. Next question. On Page number 4 of the condition, the conditional use, regulations –

1796

1797 **JAMES LEWIS**

1798 Yes.

1799

1800 **COUNCILMAN BARLOW**

1801 – conditional use regulation number 8a –

1802

1803 **JAMES LEWIS**

1804 Number 8a, yes, Sir.

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1805 **COUNCILMAN BARLOW**

1806 – the operator of a transitional community residence must require residents to be actively and
1807 continuously enrolled in an off-site support program, including without limitations of alcoholism,
1808 so forth and so on.

1809

1810 **JAMES LEWIS**

1811 Yes.

1812

1813 **COUNCILMAN BARLOW**

1814 Going back to the regulation, and this is a question more so for Dr. Hibbler, if you'll come to the
1815 microphone, please. Who, in fact, Jim, if in fact this ordinance would move forward, who in fact
1816 would be responsible for carrying out the enforcement?

1817

1818 **JAMES LEWIS**

1819 The answer would be the Code Enforcement Department of Neighborhood Services.

1820

1821 **COUNCILMAN BARLOW**

1822 Okay. And Dr. Hibbler, with that being said, do we have the capacity from Code Enforcement
1823 through Neighborhood Services, to handle such complaints, the number of complaints that have
1824 come before this elected body –

1825

1826 **LISA MORRIS-HIBBLER**

1827 Mayor –

1828

1829 **COUNCILMAN BARLOW**

1830 – to enforce the regulations moving forward, if in fact this ordinance were to be approved.

1831

1832 **LISA MORRIS-HIBBLER**

1833 Mayor, if I may?

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1834 **MAYOR GOODMAN**

1835 Certainly.

1836

1837 **LISA MORRIS-HIBBLER**

1838 We've had the capacity, Councilman, to address the complaints because we were complaint
1839 driven. I can't tell you how many complaints we would get now if this ordinance were to pass.
1840 But I can tell you that a lot of the concerns that the constituents have and the concerns are the
1841 ones that we don't really know about until somebody calls and complains. It's not the ones who
1842 are being regulated by the state, the, it's the ones who just pop up, next thing you know you see a
1843 whole bunch of people loitering outside or what not, causing problems in the neighborhood, and
1844 those are the ones we go to the home and we would investigate like anything else. So, when you
1845 see certain requirement in the ordinance, we, our officers would go to that particular location,
1846 request documentation to substantiate the number of individuals living in there and other
1847 requirements. If that information was not provided, we would move forward from there up to
1848 and including getting an administrative warrant.

1849

1850 **COUNCILMAN BARLOW**

1851 Okay. And Mr. Lewis, if I'm understanding you correctly, the state will handle the regulatory
1852 licensing of – this particular use. Is that accurate?

1853

1854 **JAMES LEWIS**

1855 Yes.

1856

1857 **COUNCILMAN BARLOW**

1858 And upon the applicant receiving the license, then they would come to the City of Las Vegas to
1859 receive the land use element to complete the license. Is that accurate?

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1860 **JAMES LEWIS**

1861 Yes. What I understand from state, because I talked to them, is that they issue a provisional
1862 license that is not – active until such time as they come to the City and then get the land use
1863 approval.

1864

1865 **COUNCILMAN BARLOW**

1866 Correct. That's what I'm saying.

1867

1868 **JAMES LEWIS**

1869 Right.

1870

1871 **COUNCILMAN BARLOW**

1872 The state will handle the regulatory licensing.

1873

1874 **JAMES LEWIS**

1875 Yes.

1876

1877 **COUNCILMAN BARLOW**

1878 In order to make the business complete, they need the land use

1879

1880 **JAMES LEWIS**

1881 Correct.

1882

1883 **COUNCILMAN BARLOW**

1884 – component in order to receive the – certificate of occupancy, for lack of a better term.

1885

1886 **JAMES LEWIS**

1887 Sure.

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1888 **COUNCILMAN BARLOW**

1889 Correct.

1890

1891 **JAMES LEWIS**

1892 Sure.

1893

1894 **COUNCILMAN BARLOW**

1895 Okay. So, if in fact, a business does not have a license, meaning from the state, because today
1896 the City of Las Vegas does not require this particular use to receive a business license. Is that
1897 correct?

1898

1899 **JAMES LEWIS**

1900 Yes. We have a, we – on our books right now we have a \$50 semi-annual license fee –

1901

1902 **COUNCILMAN BARLOW**

1903 What – does that – is for?

1904

1905 **JAMES LEWIS**

1906 – for group residential care facilities. So, if you have a, if you have what is defined a residential
1907 group care facility by state law, you then file, well, you pay \$50 semi-annual –

1908

1909 **COUNCILMAN BARLOW**

1910 Is it a business license?

1911

1912 **JAMES LEWIS**

1913 It is, yes.

1914

1915 **COUNCILMAN BARLOW**

1916 It is a business license?

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1917 **JAMES LEWIS**

1918 Yes, currently.

1919

1920 **COUNCILMAN BARLOW**

1921 Okay. Currently it's a business license. So, in essence, if in fact, Code Enforcement approaches
1922 a home that does not have the provisional state license nor the provisional land use from the City
1923 of Las Vegas, then that home is operating inappropriately –

1924

1925 **JAMES LEWIS**

1926 Let me –

1927

1928 **COUNCILMAN BARLOW**

1929 – according to state and City law.

1930

1931 **JAMES LEWIS**

1932 And I –

1933

1934 **COUNCILMAN BARLOW**

1935 Is that accurate?

1936

1937 **JAMES LEWIS**

1938 – and I would say illegally not inappropriately.

1939

1940 **COUNCILMAN BARLOW**

1941 Okay, illegally.

1942

1943 **JAMES LEWIS**

1944 Yes.

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1945 **COUNCILMAN BARLOW**

1946 Is that accurate?

1947

1948 **JAMES LEWIS**

1949 Yes.

1950

1951 **COUNCILMAN BARLOW**

1952 Okay.

1953

1954 **LISA MORRIS-HIBBLER**

1955 And, if, Mayor if I may, what –

1956

1957 **MAYOR GOODMAN**

1958 – may as well, everybody else is. We – would, of course, get a complaint, go to the home,
1959 investigate, if we did not find the proper licensing, issue a notice to cease and desist, and then
1960 also give them information as to how they can become licensed and it'll be clearer.

1961

1962 **COUNCILMAN BARLOW**

1963 Well for me, being that the state, in essence, we'll act as the City's buffer, in the sense of the
1964 regulation, and if in fact, like what I have right in, within my district, a number of homes that just
1965 pop up overnight, no licenses and they just open up shop, it would be clear cut that we can go in
1966 and we can shut those structures down immediately. Is that correct, Mr. Lewis?

1967

1968 **JAMES LEWIS**

1969 Mr. Mayor if I may. Yes, that's, one of the – major –

1970

1971 **COUNCILMAN BARLOW**

1972 Is it correct, Mr. Lewis?

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1973 **JAMES LEWIS**

1974 Yes, yes. That's what this ordinance is meant to do, make it easier for people to understand
1975 what's appropriate, what's not, what's illegal, what's not, so we can enforce our laws more
1976 efficiently.

1977

1978 **COUNCILMAN BARLOW**

1979 Mayor, the last question.

1980

1981 **MAYOR GOODMAN**

1982 All right.

1983

1984 **COUNCILMAN BARLOW**

1985 In regards to the land use component, when an applicant receives the okay, the license from the
1986 state level, the provisional license, and they come to the City, do they come before the City
1987 Council for approval or is this something that is done administratively from the land use
1988 standpoint?

1989

1990 **JAMES LEWIS**

1991 From the land use standpoint if this proposed, if this proposal passes, from one to four occupants
1992 would be a permitted use, they wouldn't even come to the City. From five to 10, they would
1993 have –

1994

1995 **COUNCILMAN BARLOW**

1996 It would be done administratively at – Building – and Safety, Planning and Development.

1997

1998 **JAMES LEWIS**

1999 No, you wouldn't even know. It's a permitted use as a matter of law between one and four
2000 unrelated folks. Between five and 10 they would come and fill out the Conditional Use
2001 Verification.

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2002 **COUNCILMAN BARLOW**

2003 Okay.

2004

2005 **JAMES LEWIS**

2006 We would review it and if everything was proper, they would then be permitted to operate, from
2007 a land use standpoint. Eleven or more would have to come before this body for a special use
2008 permit.

2009

2010 **COUNCILMAN BARLOW**

2011 Okay. I missed a step. Five to ten, what is the process for the five to ten?

2012

2013 **JAMES LEWIS**

2014 They – will file something with the City called the Conditional Use Verification form. Federal
2015 law doesn't require, allow us to require applications and so we've got a form that they're going to
2016 fill out. And so, this form will be used to understand who, who's running it, where it is –

2017

2018 **COUNCILMAN BARLOW**

2019 And –

2020

2021 **JAMES LEWIS**

2022 – who the applicants are.

2023

2024 **COUNCILMAN BARLOW**

2025 That's – fine, that's fine.

2026

2027 **JAMES LEWIS**

2028 Okay.

2029

2030 **COUNCILMAN BARLOW**

2031 But does that five to 10 come before the Council?

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2032 **JAMES LEWIS**

2033 No.

2034

2035 **COUNCILMAN BARLOW**

2036 So, that's just the administrative side of it?

2037

2038 **JAMES LEWIS**

2039 Right.

2040

2041 **COUNCILMAN BARLOW**

2042 So, anything eleven and above, under the special use permit, will then come before the City of

2043 Las Vegas?

2044

2045 **JAMES LEWIS**

2046 Well, yes.

2047

2048 **COUNCILMAN BARLOW**

2049 Council?

2050

2051 **JAMES LEWIS**

2052 And let me say this, between five and ten that is closer than 660 feet from another, has the option

2053 of coming before this Council with a special use permit. They have that option.

2054

2055 **COUNCILMAN BARLOW**

2056 Okay. Okay. Thank you, Mayor.

2057

2058 **MAYOR GOODMAN**

2059 All right. Councilman Ross, then Ms. Fretwell.

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2060 **COUNCILMAN ROSS**

2061 Thank – you, Mayor, and, Betsy, dying to hear what you have to say, so I'll be quick. Jim, let me
2062 say this, appreciate you certainly working with my constituents. Lex, Mary, thanks for coming
2063 down because you know where I am with this; I know how you feel about this. We've been
2064 talking about it for a long, long time. You've gone the extra mile, Jim, and I wanna say that
2065 'cause you and I have had these conversations as well. But here we are, as a City Council, you
2066 see we're all passionate about it; we've been discussing this for a couple of hours now. We don't
2067 have the tools that we need as local government to do much, and we're playing with the idea of
2068 what tools can we use, how can we get to where we need to be to protect the legitimate houses
2069 that are actually doing good in this community, which we certainly need, and how do we get
2070 there so we can protect our neighborhoods from the bad guys. We're not talking about the good
2071 guys who are here today, and that's you folks. We're talking about the bad ones, the ones that
2072 Mayor Pro Tem can't get out, the ones I can't get gone, the ones that we don't have the muscle to
2073 move, the tools to make them go bye-bye, and that's probably the biggest issue. So, I just want
2074 you to know that right now, Jim, because I'm not sure I wanna move forward, as – one vote on
2075 this Council, until we beat this up some more, drag it around the block and see what else we can
2076 do about it. But I just want to share that with you.

2077

2078 **JAMES LEWIS**

2079 Thank you.

2080

2081 **MAYOR GOODMAN**

2082 Ms. Fretwell.

2083

2084 **ELIZABETH FRETWELL**

2085 At the risk of weighing in to your debate about timing, let me just reflect on what I think I've
2086 heard for a couple of hours. One, everybody is extremely frustrated, all of you included with the
2087 citizens and the public, so is your staff, because for, one of the first things I dealt with as a newly
2088 appointed City Manager, was our City Attorney's Office literally, with his hair on fire, running
2089 into my office saying, we're about to get sued in a real bad way for – an ordinance that has not

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2090 met the standards of a federal judge, and we need to fix it. It's gonna take us awhile, we've got
2091 to do something or else, we are gonna have substantial risk moving forward. That was over a
2092 year ago, almost 18 months ago now, when we started this process.

2093 Meanwhile, Lisa and her team, out in the field, are pretty much handcuffed. To do any of the
2094 things you've talked about wanting to be able to do right now because we don't have an
2095 ordinance for all intense of purposes, nothing. At least what's before you today is something.
2096 So, what I was going to suggest after having listened to everything you've talked about today, is
2097 that, maybe the first step is moving forward with the ordinance the way it's written today, 'cause
2098 at least it puts a framework in place. That staff, then within however many days you want, 60,
2099 90, whatever it is, we bring back subsequent information on two fronts. What more can we do
2100 from a regulatory standpoint; what more can we do from an approval standpoint, to try and
2101 tighten this up along the lines that you've talked about today, whether it be business licensing
2102 approvals, exploring the state regulations, etcetera.

2103 The second piece of this puzzle, and something that the City has stood firm on, for at least the 10
2104 years I've been here, is that we have a long standing position to fight federal preemptions of local
2105 land use. This is a reason why what we've been dealing with today. And I think it's incumbent
2106 upon us to let our federal delegation know how problematic this is for us, not that there shouldn't
2107 be a place for people to be rehabilitated, that the people that are, the good actors shouldn't be
2108 penalized necessarily. But our hands are completely tied on dealing with the ones that aren't
2109 good actors. I would think, if we could do those three things, if you feel comfortable taking
2110 action today, at least in the ordinance that's in front of you, to create a framework so we can get
2111 off the dime, diminish some of our risk, put a timeline on staff doing additional action, as it
2112 relates to approval processes, permitting, licensing, all the other regulatory tools we have in our
2113 tool box and approaching the federal delegation quickly with our concerns, maybe in partnership
2114 with some of the people who've been here today, to try and see if there's some way to get some
2115 better clarity at the federal level. I was mentioning to some of the staff earlier, we may not like it
2116 but the Telecom rules at least give you some authority over the placement of towers. They're not
2117 popular either. We don't even have that in this situation. We don't even have a little bit of help
2118 in that regard for local enforcement, if you will. So, for what it's worth, I – hope that you give

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2119 that some consideration so that, we at least take the handcuffs off our staff a little bit while we
2120 work to continue to refine this ordinance, versus having nothing in place right now.

2121

2122 **COUNCILMAN BARLOW**

2123 Mayor Goodman.

2124

2125 **MAYOR GOODMAN**

2126 Yes, Councilman.

2127

2128 **COUNCILMAN BARLOW**

2129 Thank you, Betsy, for bringing that forward, because that was exactly where I was looking to,
2130 close of my ending statements. So, thank you for bringing that out. Also, thanks to Mayor Pro
2131 Tem Reese for requesting for Ted Olivas to remain behind in regards to him being able to listen
2132 to the dialogue, not only for the state legislature but for the federal delegates as well, because this
2133 is something that we're going to have to communicate on both levels, the state and the federal
2134 levels in order to provide some level of relief, specifically for those good folks who are trying to
2135 do the right thing. They're here because they want to do the right thing, you know. My gripe is
2136 not for anyone in this audience. My gripe is for those individuals that basically set up shop like
2137 renegades that come into the neighborhoods in which I represent and – cause a major havoc.

2138 And for that, I want to eliminate that illness, and I want it to be eliminated immediately.

2139 And – my suggestion or recommendation would be to – move this ordinance forward. I know
2140 it's not as clear cut as some of my colleagues would like it, but I believe it is a start in the right
2141 direction, and we can adjust and fine tune as we move forward. And – Mayor, I – would like to
2142 make that as my motion, that we approve the ordinance that has been brought before us and make
2143 appropriate adjustments accordingly, as the months and years go on. And – to the dear folks that
2144 are here that are looking to do the right thing, I suggest that you all continue to work with us to
2145 help us to make sure that we are doing things that help you to be successful, continuing to run
2146 above board businesses in the Wards in which we represent, 'cause you all understand where we
2147 are as well, because, you know, the problems that occur at your various properties, we hear from
2148 the constituents, your neighbors, our constituents, and we have to address it. So, we have to

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2149 work together in order to accomplish this very big task before us. And – of course, if you all, as
2150 you all have heard here today, we have to meet with our state legislators, and we have to meet
2151 with our federal delegates to find a happy median that you can continue to operate your
2152 businesses and we can continue to run communities in – our respective Wards, and in order to
2153 improve the quality of life for all our residents. And that will be my thoughts, Mayor, not – a
2154 motion. I’m sorry. Those are my thoughts in regards to – what – has been brought forward.
2155 Thank you.

2156

2157 **MAYOR GOODMAN**

2158 Okay. Thank you. I haven’t closed public comment yet. This is the time for public comment.
2159

2160 **COUNCILMAN REESE**

2161 (Inaudible).

2162

2163 **JIM DiFIORE**

2164 Mayor, members of the Council, just a correction, Mr. Winslow was here just a short time ago
2165 stating that he came to Business Licensing and was told that he did not need a business license.
2166 Carol Meyer and I spent some time with him. He was trying to submit an application as a short-
2167 term rental to try to bypass the regular process. And I believe, at minimum, he was told that he
2168 could not qualify for the type of license that he was going to apply for because of the zoning
2169 requirements. So, I wanna make that part of the correction.

2170 Speaking of a short-term rental, I know Mr. Lewis was talking about the fact that we cannot be
2171 discriminatory against the disabled and the non-disabled, but I believe we need, we may need to
2172 look at the short-term rental as the requirement that maybe he’s looking at as far as not being
2173 discriminatory because we do have that in our zoning codes and our business licensing codes,
2174 and that requires anybody who rents out their home for a short-term basis to come into the City to
2175 meet zoning requirements, as – well as to get this permit from the City of Las Vegas. So, maybe
2176 that mechanism is already in place.

2177 Regarding the enforcement that has been discussed here amongst the Board, our office does
2178 enforcement on business licensing codes. We also have the authority to do Title 19

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2179 enforcements. So, there is some assistance that we can provide with Code Enforcement on the
2180 enforcement of these regulations if they go into effect, and we work very closely with Code
2181 Enforcement on all residential complaints. So, there is that piece of it that we can offer some
2182 help and services.

2183

2184 **MAYOR GOODMAN**

2185 All right. Thank you. Anybody else want to be heard? It's closed. Three-minute timer, and it's
2186 gonna be strictly enforced.

2187

2188 **COUNCILMAN REESE**

2189 (Inaudible).

2190

2191 **MAYOR GOODMAN**

2192 Right. (Inaudible).

2193

2194 **JOE MAVIGLIA**

2195 Three minutes?

2196

2197 **MAYOR GOODMAN**

2198 That's it, three minutes.

2199

2200 **JOE MAVIGLIA**

2201 How you're doing?

2202

2203 **MAYOR GOODMAN**

2204 Folks, I said two thirty, figure three o'clock. I mean, it's just, it's gotten so out of hand.

2205

2206 **JOE MAVIGLIA**

2207 Well, this is very simple. Joe Maviglia. I have a non-profit corporation called H and E Training
2208 Schools. I have been working diligently to work on retrofitting old whole mobile homes for low

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2209 income housing. These individuals that are working on these group homes may get a hold of me
2210 and look into this project. It could be extremely beneficial for low income housing for
2211 individuals, and there's a lot of trailer parks that have mobile homes that are empty and can be
2212 retrofitted for this project, as long as they are brought up to code. So, I'd like just to mention that
2213 for information. Thank you.

2214

2215 **MAYOR GOODMAN**

2216 Thank you. Anybody else wanna be heard?

2217

2218 **BRYAN SPUHLER**

2219 Bryan Spuhler, I'm, will be as quick as I can. I came today, I'm a case manager for Group Foster
2220 Home. That's actually why I was here. I actually came just, mainly, for clarification to know,
2221 was foster care being lumped in in the same category as recovering alcoholics and those kinds of
2222 things? It sounds like, based on discussions, that that actually is the case, and that it's being
2223 considered part of the group –

2224

2225 **MAYOR GOODMAN**

2226 No, that's not the case.

2227

2228 **BRYAN SPUHLER**

2229 That's not the case. Excuse me. I apologize. That was actually –

2230

2231 **MAYOR GOODMAN**

2232 But, see, that's the problem, because here, you're sitting here, you're listening to everything and
2233 you come up the exact opposite of what we understand was, we were advised of. That's one of
2234 the big problems of having this presentation.

2235

2236 **BRYAN SPUHLER**

2237 It was my understanding based on the, the gentleman in the yellow t-shirt, that they were
2238 referring to a foster home here in town –

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2239 **MAYOR GOODMAN**

2240 Foster homes, according to our counsel, Mr. Lewis, are not included in this particular ordinance.

2241

2242 **BRYAN SPUHLER**

2243 (Inaudible) a foster home with kids up to number, up to 12 kids, that would not be (inaudible)?

2244

2245 **MAYOR GOODMAN**

2246 As I understand, it's not included in this ordinance.

2247

2248 **BRYAN SPUHLER**

2249 Thank you.

2250

2251 **MAYOR GOODMAN**

2252 Is that correct, Mr. Lewis?

2253

2254 **JAMES LEWIS**

2255 Yes, the – definition of family includes those with legal status. So, if you've got a home with

2256 foster children and you've got parents living there, not employees, you've got parents in the

2257 facility with foster children, then it falls under our family definition.

2258

2259 **BRYAN SPUHLER**

2260 Okay.

2261

2262 **MAYOR GOODMAN**

2263 Does that help you, Sir?

2264

2265 **BRYAN SPUHLER**

2266 That, that's perfect. Thank you very much.

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2267 **MAYOR GOODMAN**

2268 Very good. Anybody else wanna be heard? All right, then we'll close the public hearing. Let
2269 me ask you this, Mr. Lewis, how long would it take you to put in a business license provision in
2270 this ordinance?

2271

2272 **JAMES LEWIS**

2273 Well, Mr. Mayor, we have a business license provision already for group residential care
2274 facilities, that – we were asking to be stricken. You could –, today, move forward with the
2275 ordinance, without striking the Title 6 business license requirement, and, it would continue to
2276 exist.

2277

2278 **MAYOR GOODMAN**

2279 And would that be, according to your opinion, consistent with the federal opinion?

2280

2281 **JAMES LEWIS**

2282 I would, my suggestion would be that we follow –

2283

2284 **MAYOR GOODMAN**

2285 It's – really, you know, I –

2286

2287 **JAMES LEWIS**

2288 Yeah, no –

2289

2290 **MAYOR GOODMAN**

2291 – in my old life, I would – say to the witness, you know, yes or no.

2292

2293 **JAMES LEWIS**

2294 The question – is, would we be in violation of federal law if we had a business license
2295 requirement?

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2296 **MAYOR GOODMAN**

2297 I'm saying, is, if we did not strike the – business license provision, would that be inconsistent
2298 with the federal opinion?

2299

2300 **JAMES LEWIS**

2301 Yes.

2302

2303 **MAYOR GOODMAN**

2304 Okay. That's an answer.

2305

2306 **COUNCILMAN ROSS**

2307 I'm proud of you.

2308

2309 **JAMES LEWIS**

2310 Mayor, you understand, I get paid by the word, right?

2311

2312 **MAYOR GOODMAN**

2313 That's why we have budget problems.

2314

2315 **COUNCILMAN REESE**

2316 We need a motion –.

2317

2318 **MAYOR GOODMAN**

2319 Okay, we need a motion.

2320

2321 **COUNCILMAN REESE**

2322 Thank you, Your Honor. Again, I wanna – thank my Councilmembers, Mayor; Mr. Lewis for all
2323 you've done. Betsy, I can certainly appreciate what you're trying to tell us. I still feel
2324 uncomfortable. I had one of these freaks of nature pop up in my Ward, as was talked about by
2325 the first gentleman that was, spoke today. I – don't feel like that we have the tools to get him

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2326 closed today. I think we need to further study. I think I need to understand more of what I have
2327 to do, as a Councilman, to be the leader that I was elected to be in my Ward, and to make those
2328 decisions that will benefit the people that are complaining to me about it. I don't feel
2329 comfortable today about making a motion to approve this item. I appreciate your work, but I –
2330 feel like that we need a couple more weeks to be able to further – look at what would be
2331 satisfactory for everybody here today. And I appreciate Councilman Barlow's comments. I
2332 know he's just as frustrated as I am, and I really appreciate that, Councilman. But again, though,
2333 I –, I'd just like to hold this to our next meeting, see if we can't make a few additions or changes
2334 to see if we can't further strengthen what we're trying to do here, legally, I guess, to be able to
2335 pass muster.

2336

2337 **MAYOR GOODMAN**

2338 Mr. Lewis, would, consistent with Mayor Pro Tem's remarks, do you believe you'll be able to go
2339 to the person or organization that is proposing a lawsuit against us and get us an additional two
2340 weeks before a suit be filed?

2341

2342 **JAMES LEWIS**

2343 Yeah, Mr. Mayor. I – don't think that if, yes, the answer is yes.

2344

2345 **MAYOR GOODMAN**

2346 Well, why don't you try to do that. I scared him, didn't I? I should have done it three hours ago,
2347 but that's (inaudible).

2348

2349 **COUNCILMAN REESE**

2350 I would make a motion, Your Honor, to hold this to July 7, to see if we can't come back with,
2351 maybe, a stronger resolution here. That is my motion.

2352

2353 **MAYOR GOODMAN**

2354 All right, that's the motion.

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2355 **COUNCILMAN REESE**

2356 Incorporating, in my motion, everything that's been said here today, and I want to thank those
2357 who come (sic) out here and – explained to us what they do and how they do it, because I know
2358 that there are those out there, there are those ones out there that do a fantastic job, and every
2359 comment I made was not referred to those type of uses, because they are good, and they are
2360 needed, and I support that. Some of these fly-by-nights are the ones I'm – talking about, those
2361 are the ones we need to get a handle on.

2362

2363 **MAYOR GOODMAN**

2364 All right.

2365

2366 **COUNCILMAN REESE**

2367 I appreciate what you do.

2368

2369 **MAYOR GOODMAN**

2370 And, we're being signaled by Mr. Lewis that he would like 30 days instead of two weeks.

2371

2372 **COUNCILMAN REESE**

2373 Thirty days is fine.

2374

2375 **MAYOR GOODMAN**

2376 And, Councilman Barlow?

2377

2378 **COUNCILMAN BARLOW**

2379 Yes, Mayor?

2380

2381 **MAYOR GOODMAN**

2382 Is that, would that be consistent with your wishes as well?

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2383 **COUNCILMAN BARLOW**

2384 That would be consistent, and I wanna thank Mayor Pro Tem for his comments, as well. Thank
2385 you.

2386

2387 **MAYOR GOODMAN**

2388 All right, very good. All right. That, that's the motion.

2389

2390 **COUNCILMAN REESE**

2391 **July 21st.**

2392

2393 **MAYOR GOODMAN**

2394 All right, that's the motion. Let's vote on that, please. Post. Motion carries. **(Motion carried**
2395 **unanimously.)**

2396

2397 **COUNCILMAN WOLFSON**

2398 Mayor Goodman, may I make two quick observations, please? Number one, I know it's two
2399 hours. Number one, sometimes this kind of painful process that we went through, that took two
2400 and a half to three hours, is productive, because the way the Open Meeting Law works, when we
2401 have our individual briefings, and, Jim, you talked to a couple of us, then you talked to another
2402 couple, 'cause we can't meet in, as a body, the fact that we did this time and flushed it out with
2403 the help of our citizens and constituents. It was painful, it was long, but I think we helped to
2404 narrow the issue. So, I think it was a good process, even though it was fairly painful.

2405 Number two, I hope somebody took some pretty good notes, because in the next 30 days, Betsy,
2406 in – the individual briefings that we have, I really want to focus on the questions that we all had
2407 so that we can get the answers, and if we have to tweak this ordinance, when we come back in 30
2408 days, we have a clean –

2409

2410 **BEVERLY K. BRIDGES**

2411 Councilman Wolfson, we're doing a transcript of this item, so it'll be word for word for you.

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2412 **MAYOR GOODMAN**

2413 All right, fine. And – did you have anything else, Councilman?

2414

2415 **COUNCILMAN WOLFSON**

2416 No, I'm good.

2417

2418 **MAYOR GOODMAN**

2419 All right. From my perspective, I – want to explore the business license provision and also a

2420 placement provision, whether or not put, by placement, I mean, a group home being in an area

2421 before other homes surrounded rather than to come into an area where other homes exist.

2422

2423 **COUNCILMAN BARLOW**

2424 Mayor Goodman?

2425

2426 **MAYOR GOODMAN**

2427 You follow me or not?

2428

2429 **JAMES LEWIS**

2430 No, I wanna make sure.

2431

2432 **MAYOR GOODMAN**

2433 I wanna be clear on it.

2434

2435 **JAMES LEWIS**

2436 Yeah.

2437

2438 **MAYOR GOODMAN**

2439 I'm asking whether or not it would be constitutional and legal to have a requirement that the

2440 group home be at a location where other homes are not within a certain distance from it.

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2441 **JAMES LEWIS**

2442 Yeah.

2443

2444 **MAYOR GOODMAN**

2445 And, that's all I wanna know. In other words –

2446

2447 **JAMES LEWIS**

2448 Yeah. The answer is –

2449

2450 **MAYOR GOODMAN**

2451 – let's – assume there are homes fifteen hundred feet away –

2452

2453 **JAMES LEWIS**

2454 Right.

2455

2456 **MAYOR GOODMAN**

2457 – I – wanna know whether I can require that no group home goes, becomes a group home if it's

2458 within then fifteen hundred feet from another home.

2459

2460 **JAMES LEWIS**

2461 Oh, okay. So – the – just so I can narrow it –

2462

2463 **MAYOR GOODMAN**

2464 Right.

2465

2466 **JAMES LEWIS**

2467 – our ordinance, as proposed, says, we've got a 660-foot separation requirement, if you're gonna

2468 be –

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2469 **MAYOR GOODMAN**

2470 Right. But – as Councilman –

2471

2472 **JAMES LEWIS**

2473 – really close –

2474

2475 **MAYOR GOODMAN**

2476 – as Councilman Barlow pointed out, in the dictum, it said zero feet.

2477

2478 **JAMES LEWIS**

2479 Yeah.

2480

2481 **MAYOR GOODMAN**

2482 You say you can get away with 660; I wanna know whether you can get away with a mile.

2483

2484 **JAMES LEWIS**

2485 No, I can tell you today.

2486

2487 **MAYOR GOODMAN**

2488 All right. Well, tell me how much between 660 and a mile.

2489

2490 **JAMES LEWIS**

2491 Okay.

2492

2493 **MAYOR GOODMAN**

2494 Okay.

2495

2496 **COUNCILMAN BARLOW**

2497 How many feet in a mile? No, I m just kidding.

