

CITY COUNCIL MEETING OF
October 6, 2010
VERBATIM TRANSCRIPT ITEM 63

Hearing, discussion and possible action regarding complaint seeking disciplinary action against James Cooper d/b/a The Amazing Art Company, 3814 Meadows Lane, Las Vegas, Clark County, Nevada, for violations of the Las Vegas Municipal Code

Appearance List:

OSCAR B. GOODMAN, Mayor

PHILIP BYRNES, Deputy City Attorney

JAMES COOPER, The Amazing Art Company

BRAD JERBIC, City Attorney

STEVE WOLFSON, Councilman

RICKI Y. BARLOW, Councilman

WILLIAM SCHOEN, Detective, Las Vegas Metropolitan Police Department, Special Investigation Section

J. DeSCHUTTER, Detective, Las Vegas Metropolitan Police Department, Special Investigation Section

GARY REESE, Councilman

STEVEN D. ROSS, Councilman

STAVROS S. ANTHONY, Councilman

LOIS TARKANIAN, Councilwoman

1 hour

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MAYOR GOODMAN

Item 63 is hearing, discussion and possible action regarding complaint seeking disciplinary action against James Cooper, doing business as The Amazing Art Company, at 3814 Meadows Lane, Las Vegas, Clark County, Nevada, for violations of the Las Vegas Municipal Code. And this is in Ward 1. Mr. Byrnes.

PHILIP BYRNES

Good morning, Your Honor. I believe Mr. Coopers here.

MAYOR GOODMAN

Mr. Cooper, why dont you come up? Okay.

JAMES COOPER

Hello. Good morning.

MAYOR GOODMAN

Good morning. Mr. Byrnes?

PHILIP BYRNES

Good morning, Your Honor. I think before we begin the hearing, Mr., I spoke to Mr. Cooper last night, and he wants to request a continuance. I dont believe its allowed under the code, but I would like to give him the opportunity to make his (inaudible)

MAYOR GOODMAN

All right. Fine. The record should reflect that Im going to make this a part of the record, that I received, just momentarily ago, to whom it may concern request for a continuance in order for the gentleman to seek legal counsel, and Ill make that part of the record. Madam Clerk.
Mr. Cooper, you wanna be heard on that issue?

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JAMES COOPER

Yes, Your Honor. I spoke to an attorney, and they requested a thirty-five hundred dollar retainer to represent me today, and I was only able to raise twenty-five hundred dollars. Im a thousand dollars short of having the money to have legal representation here with me. And, Im, understand from speaking to

MAYOR GOODMAN

Mr. Byrnes?

JAMES COOPER

the attorney yesterday, yeah, that the next City Council hearing is on the 20th, and that that would be 63 days since the complaint had been filed, which is three days over the limit. And I would like to ask if I could have a continuance until the 20th, because I will be able to have an attorney, if it is continued until the next City Council hearing.

MAYOR GOODMAN

All right. What is your position, Mr. Byrnes?

PHILIP BYRNES

Your Honor, the ordinance is mandatory in this case. The hearing cant be more than 60 days after the approval of the complaint, that would be past the time allotted under the ordinance.

MAYOR GOODMAN

Let me ask you this. Can the, a party waive the

BRAD JERBIC

No, Your Honor,

MAYOR GOODMAN

60-day requirement?

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BRAD JERBIC

We have looked this up in the past, and it is jurisdictional. The only way for a continuance to be granted in this case would be for the Council to have a special meeting within that 60-day timeframe. If we go over it, and this gentleman were to get different counsel on appeal, he might argue, in effect, with the assistance of counsel, he might argue the jurisdictional aspect of it. It would then possibly be reversed by the District Court, and we'd have to restart the complaint process. So, the only way to do this is to, one, hear it today, two, have a special meeting within the 60 days, or, three, have us restart the complaint process.

MAYOR GOODMAN

All right. Well, the complaint was served upon you August the 26th, so, I think there was probably adequate time for you to retain counsel, and based on the jurisdictional aspect of this, whether I agree with it or not, that appears to be the case, as our counsel tells us, and we'll go forward today. All right, Mr. Byrnes.

PHILIP BYRNES

Yes, Your Honor. Prior to me getting into the hearing, I have a set of exhibits I'd like to give to the Clerk, and have introduced as evidence.

MAYOR GOODMAN

Does he wanna be heard?

COUNCILMAN WOLFSON

No.

MAYOR GOODMAN

(Inaudible) Maybe the others agree with you. I don't have a problem. Councilman Wolfson would like to be heard on this.

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COUNCILMAN WOLFSON

Thank you. Mr. Jerbic, I understand what you said about jurisdictional; could you tell us again, because in most every situations (sic) involving court hearings, whether it be a criminal trial, a civil trial, an administrative process, theres always room that if somebody comes in and needs a continuance, especially, this is his first request, that there should be some flexibility where we grant him a request for a continuance. Lets say, he came in and said, hes ill, he doesnt feel good, hes got the flu, or something like that. Under what youre advising us, we couldnt give him a continuance. And hes not asking for three or four months, hes asking for basically 30 days, which puts us three days over the 60-day rule. So, I guess, my question is, is there any room for a little flexibility under these circumstances?

BRAD JERBIC

Unfortunately, the flexibility, it comes into the fact that its your code, and you can change it. But the way it is written right now, there is no flexibility. Well be more than happy to entertain an amendment, if you want to change it in the future. Weve discussed it with Council members in the past. I dont know if you were on the Council the last time this came up. But its been an issue now for many, many years, since weve been doing these disciplinary complaints. Again, since its your code, it can be adjusted, but because it hasnt been adjusted, because of the way the language is phrased, there just isnt any wiggle room here, other than have the hearing.

COUNCILMAN WOLFSON

Certainly, we couldnt adjust the code now?

BRAD JERBIC

Thats correct.

COUNCILMAN WOLFSON

Okay. My next question would be, is, what would be the ramifications if this Council were to decide to give him his request for continuance, and a new date put us at that 63rd day? Give me a scenario.

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BRAD JERBIC

Well

COUNCILMAN WOLFSON

We come back in , on the date in question, which is three days past the 60 days, we have a hearing, he wins; could we appeal because we violated the jurisdictional rule? Or scenario number two, he loses. What are the potential scenarios?

BRAD JERBIC

Yeah. I dont know. I would urge this, though, so that we dont get into the uncertain. If theres a desire to give the gentleman a continuance, there is a method to do that, and that is just to simply allow this date to expire today, and what, well file the complaint at the next Council meeting, starting a whole new 60-day cycle. Thatll give him plenty of time to get an attorney.

COUNCILMAN WOLFSON

Okay . So, there are

BRAD JERBIC

Yeah There are methods

COUNCILMAN WOLFSON

methods

BRAD JERBIC

Theres a method to do it.

COUNCILMAN WOLFSON

Okay.

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MAYOR GOODMAN

Yeah, but, well, I appreciate that. But Im going to let the ruling stand, because, if thats the way to do it, we have a history here, and, I think, that that would be putting us in a bad position, to be quite frank with you. I believe the mans entitled to counsel, but I think that he certainly had enough time to retain somebody, so were going to go forward.

BRAD JERBIC

And, if I could put on the record, too, Your Honor, and I know that, as a philosophical matter, we may disagree, but, as a legal matter, there is no right to legal counsel at these hearings.

MAYOR GOODMAN

No. And I understand that, but if he wants a lawyer, ordinarily, my tendency would be, get a lawyer, and wed be happy to hear from the lawyer, and he said he doesnt know what the rules are in the motion that he filed, and the request he filed, and Id hate to see a person having a property right, whatever it is, as far as the license is concerned, and not to have adequate representation. But, under the circumstances and the history here, I feel that we should go forward today, and Im not prepared to put it off for another 60 days.

JAMES COOPER

May I say something?

MAYOR GOODMAN

Sure.

JAMES COOPER

I would sign, like if you guys could print up something, I would sign something that, say I, you know,

MAYOR GOODMAN

No. Im sure

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JAMES COOPER

beyond 63 days

MAYOR GOODMAN

you would

JAMES COOPER

that I wouldnt, you know

MAYOR GOODMAN

No. I appreciate that. And, ordinarily, under, perhaps another set of circumstances, I would be prone to allow you to do that, but there are too many issues here with jurisdictional danger, so were gonna go forward.

PHILIP BYRNES

Thank you, Your Honor.

COUNCILMAN BARLOW

Mayor Goodman?

MAYOR GOODMAN

Yes.

COUNCILMAN BARLOW

To counsel, when was the gentleman notified, what was the date in which he was notified that he would be coming before

MAYOR GOODMAN

August 26th

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PHILIP BYRNES

August 26th.

COUNCILMAN BARLOW

So, it was August 26th?

PHILIP BYRNES

Correct.

COUNCILMAN BARLOW

Today's October

PHILIP BYRNES

6th.

COUNCILMAN BARLOW

6th. Okay.

JAMES COOPER

And it was, and then it was just I, you know, I tried to raise as much money as I could, and I raised twenty-five hundred dollars, but it was thirty-five hundred dollars to have an attorney respond. So, I'm only a thousand dollars short, and then, if the next City Council is indeed on the 20th, that's only a 14-day continuance from today.

COUNCILMAN BARLOW

Right. But, understanding what our counsel was sharing with us, were pretty much caught with our back up against a wall, as far as making a decision as to whether or not we set a precedent. And, Mayor and Council, I'm not of the appetite to set a precedent today. I think that will be sending the wrong message to licenses that come before this board, as far as its severity as to all of the time and effort that we put forward in order to make sure that businesses in our community operate accordingly. And, to like it lightly, having had since August 26th, or August 6th, ample enough time to retain an attorney, I believe, that my position today would be to move forward with this item.

MAYOR GOODMAN

Okay. Mr. Byrnes.

PHILIP BYRNES

Thank you, Your Honor. Your Honor, this matters on for a disciplinary complaint. The allegations to the complaint state that on two occasions, Mr. Cooper operates a business known as Amazing Arts Company, sold graffiti implements to minors.

MAYOR GOODMAN

All right. Please, speak up a little louder, please.

PHILIP BYRNES

I'm sorry, sold graffiti implements to minors. In the first instance it was, the sale took place on February 12th, 2009. In that case, Mr. Cooper was found guilty in a Municipal Court proceeding and sentenced to probation. Legally, that violation established. The second violation occurred on June 17th of 2010. In this case, Mr. Cooper was served with a complaint on August 26 of 2010. He had until September 15th to submit a written answer. He hasn't done that. Pursuant to the code, the factual allegations to the complaint that he admit it. Additionally, I submitted to both the Council, the Clerk and Mr. Cooper documentary evidence establishing each of the two

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offenses.

So, I believe, this matters actually, based on the code and the failure to answer, is concluded factually, is a question of whether Mr. Cooper has any justification for the violations due

MAYOR GOODMAN

Well,

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PHILIP BYRNES
(inaudible), penalty

MAYOR GOODMAN

if I may, Mr. Byrne (sic), he may be right, but Im not going to accept that. The gentleman, by appearing here, is saying that he wants to contest it. Hes entitled to that, as far as Im concerned. Had he had an attorney, the attorney would have responded for him. He indicates that he isnt skilled with the legal procedure, so I tell you to put your evidence on, and then he can rebut it.

PHILIP BYRNES

Okay. Your Honor, to a certain extent, Id offer the exhibits in evidence, have they been accepted?

MAYOR GOODMAN

If youve offered them, they are admitted into evidence, yes.

PHILIP BYRNES

Thank you, Your Honor. Then I would call the first witness is Detective Bill Schoen.

MAYOR GOODMAN

Very good. Detective?

PHILIP BYRNES

And, Your Honor, as a predicate, the Metro detectives have requested that their faces not be shown on camera.

MAYOR GOODMAN

And thats not a problem. As I understand it, the, theyre trying to protect their anonymity, and the record will reflect that the detective has responded to his name and will be permitted to testify without the camera facing him.

PHILIP BYRNES

Okay. Detective Schoen, could you identify yourself.

WILLIAM SCHOEN

Yes. My name is Detective William Schoen, S-c-h-o-e-n. Im with the Las Vegas Metropolitan Police Department, Special Investigations Section.

PHILIP BYRNES

Were you present at Amazing Art Company August 17th, 2010?

WILLIAM SCHOEN

I was present on June 17th, 2010.

PHILIP BYRNES

Sorry, I misread the date. June 17th.

WILLIAM SCHOEN

Yes, Sir.

PHILIP BYRNES

And, what was the purpose of your presence there at that time?

WILLIAM SCHOEN

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The purpose there was to conduct a covert compliance check using, utilizing an under aged decoy, to see if Mr. Cooper would or would not sell restricted items, those being graffiti implements to a minor.

PHILIP BYRNES

And did you verify the age of the under, of the decoy?

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WILLIAM SCHOEN

I did, through Nevada state-issued I.D.

PHILIP BYRNES

And what was the date of birth?

WILLIAM SCHOEN

It was January 12th of 1993.

PHILIP BYRNES

So, he was 17 years old at the time?

WILLIAM SCHOEN

Yes, Sir.

PHILIP BYRNES

Was he provided with any currency?

WILLIAM SCHOEN

Yes, he was.

PHILIP BYRNES

How much was that?

WILLIAM SCHOEN

I believe \$60 in the form of three \$20 bills.

PHILIP BYRNES

Did the decoy enter the premises of Amazing Art?

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WILLIAM SCHOEN

He did.

PHILIP BYRNES

Did he subsequently leave the premises?

WILLIAM SCHOEN

Yes.

PHILIP BYRNES

Did he have anything in his possession at the time?

WILLIAM SCHOEN

He did.

PHILIP BYRNES

And what were they?

WILLIAM SCHOEN

I believe four cans of spray paint, multiple spray-can tips and some stickers.

PHILIP BYRNES

Did he have any currency in his possession at the time he returned?

WILLIAM SCHOEN

He did. He had the remainder of the currency, the purchase did not, it didnt add up to what I gave him. And I think I told you \$60. I meant \$40, and I apologize for that.

PHILIP BYRNES

Did he return \$8 in change?

WILLIAM SCHOEN

He did.

PHILIP BYRNES

Did you subsequently enter the premises of Amazing Art?

WILLIAM SCHOEN

Yes.

PHILIP BYRNES

Did you speak to Mr. Cooper?

WILLIAM SCHOEN

Yes.

PHILIP BYRNES

Did he make any statements about the sale of the product to this individual?

WILLIAM SCHOEN

He did.

PHILIP BYRNES

Did he admit that he sold the spray paint to a minor?

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WILLIAM SCHOEN

Yes.

PHILIP BYRNES

Did you speak to the minor also after he left the store?

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WILLIAM SCHOEN

Yes.

MAYOR GOODMAN

You know, its sorta like a whispering between the two of us. Speak up, please. Maybe Im gettin old, I dont know, but I cant hear anything.

PHILIP BYRNES

Okay. Im sorry, Your Honor.

WILLIAM SCHOEN

Sorry about that.

MAYOR GOODMAN

Thank you. Thank you, Councilman.

PHILIP BYRNES

Did you speak to the minor after he left the premises?

WILLIAM SCHOEN

I did.

PHILIP BYRNES

Did he relate to you his conversation with Mr. Cooper?

WILLIAM SCHOEN

Yes.

PHILIP BYRNES

And what did he relate to you?

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WILLIAM SCHOEN

He said that Mr. Cooper did not ask him for identification or ask him how old he was. He said that he, he being Mr. Cooper, sold him the spray paint without reservation, and he even provided our decoy with complimentary, so-to-speak, spray tips for the spray paint cans, as well as stickers. He also, he being Mr. Cooper, also asked our decoy if he was working with the police or if he was a junior cadet.

MAYOR GOODMAN

And, at this time, I just have to say, Mr. Cooper, had you had a lawyer, the lawyer would have been objecting that this was hearsay, but because we're in an administrative proceeding, I would rule that hearsay is admissible, just so you know.

JAMES COOPER

Okay.

MAYOR GOODMAN

Okay. I'll get to you. You'll have a chance to examine the witness.

PHILIP BYRNES

Detective Schoen, did the minor also indicate that he had told Mr. Cooper that he wanted to buy some spray paint because his parents had taken away his paint?

WILLIAM SCHOEN

That's correct.

PHILIP BYRNES

That's all the questions I have, Your Honor.

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MAYOR GOODMAN

Thank you, Mr. Byrne (sic). Mr. Cooper, youre allowed to ask questions on cross-examination of Detective Schoen.

JAMES COOPER

You know, I really dont know exactly what to ask or how to word it. My problem with the under-age decoy that they used is he was bigger than me and had full facial hair, and I didnt believe that he was under the age of 18 thats how come I didnt ask him

MAYOR GOODMAN

Why dont you ask the detective to describe the decoy to you.

JAMES COOPER

I have a photo of him, but I dont know if were allowed to use it because hes a minor

MAYOR GOODMAN

You could show it to the detective and ask him whether this is the person to whom he was referring.

JAMES COOPER

Yeah.

MAYOR GOODMAN

All right. Mr. Coopers showing the detective a picture and asking him whether or not thats the person that hes been referring to as the under-age minor who made the purchase.

WILLIAM SCHOEN

Mayor and Council, this is the person in question; however, Id like to point out that he did not look this way. This is not a picture of him on the day in question.

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MAYOR GOODMAN

Okay.

JAMES COOPER

Then also, you know, when I did have an attorney and legal counsel, the, that was explained to me that the law read that no one was able to purchase spray paint without permission of a parent or a responsible adult. And, then it would be my feeling that if he was working with the police department, that his parents did give him permission to work with the police

MAYOR GOODMAN

Why dont you do this, why dont you ask the detective whether or not he knew whether or not this young mans parents were aware of the fact that he was assisting the police?

JAMES COOPER

Were the young mans parents aware that he was assisting the police?

WILLIAM SCHOEN

Yes.

JAMES COOPER

So, then it would

MAYOR GOODMAN

Right. Then, Youll save that for your argument; okay? You asked a pertinent question and

JAMES COOPER

Okay.

MAYOR GOODMAN

youll have a chance to tell us why you think its important that that fact be established.

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JAMES COOPER

Um

MAYOR GOODMAN

No. Later . Do you have any other questions of the detective? So far, youre doing pretty good.

JAMES COOPER

I, the only other question that I would have of the detective, you know, is very, Im very passionate about what I do, and if I seem upset or flustered then

MAYOR GOODMAN

Youre doing fine.

JAMES COOPER

I apologize.

MAYOR GOODMAN

Dont apologize. Youre doing fine.

JAMES COOPER

I wanted to ask the detective, the , so they did, in turn, the police gave him permission to buy a product at the store, and the parents gave him permission to buy the, to work with the police and buy the paint?

WILLIAM SCHOEN

The parents did give permission. I wouldnt say that we gave permission; we enlisted his services.

JAMES COOPER

Okay. And, then, I

MAYOR GOODMAN

Youll argue that as soon as the City concludes its presentation.

JAMES COOPER

Okay. And, then, you know, I didnt know if you guys wanted to see the picture of the guy that bought the paint or not. Would the City Council like to see it?

MAYOR GOODMAN

Not necessarily, because the state of the record, at this point, is that the detective says that it does not appear to be the same physical condition as it was on the day that the purchase was made. You have any other questions?

JAMES COOPER

No. I dont believe that I do.

MAYOR GOODMAN

Okay. Thank you. Your next witness, Mr. Byrne (sic)?

PHILIP BYRNES

I have one question on

MAYOR GOODMAN

All right.

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PHILIP BYRNES

rebuttal. Detective Schoen, was the undercover decoys parents present at the time of purchase?

WILLIAM SCHOEN

No.

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PHILIP BYRNES

Thank you. Thats all I had.

MAYOR GOODMAN

Okay. Next witness, please.

COUNCILMAN WOLFSON

Mayor Goodman, may I ask

MAYOR GOODMAN

yes?

COUNCILMAN WOLFSON

our legal counsel a legal question, please?

MAYOR GOODMAN

Certainly. Thatll be of Mr. Jerbic?

COUNCILMAN WOLFSON

Yes. Mr. Jerbic, if Mr. Cooper had a good-faith belief that the person he sold this paint to was 18 year of age or older, is that a defense to this offense?

BRAD JERBIC

I dont think good-faith belief is the standard here. Let me read to you the code exactly. It says, no person, other than a responsible adult shall sell, exchange, give, loan or anyway (sic) furnish a graffiti implement to any minor without the consent of the minors responsible adult. It is, according to the code, at least under my interpretation, Mr. Byrnes can chime in here, it is the responsibility of the seller to ensure that the individual theyre selling to is 18 years of age or older. If it were merely good faith, and that were the standard, based on how somebody appeared, wed have a very subjective standard that I think would be very vague and ambiguous, be subject to whos, you know, how old do you think somebody is? Everybody could differ on that. Does facial hair determine it? Does baldness determine it? Does height? Does size determine it? I think the code is blunt; its actually knowing is over 18 years of age, and its their responsibility to I.D. and check. Thats my interpretation.

PHILIP BYRNES

Thats correct. It would be similar to offenses dealing with alcohol, cigarettes, gaming; its on the licensee to make sure the person is of appropriate age.

MAYOR GOODMAN

All right. Your next witness, please.

PHILIP BYRNES

My next witness is Detective DeSchutter.

MAYOR GOODMAN

(inaudible)

PHILIP BYRNES

Would you identify yourself for the record?

JOHN DeSCHUTTER

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Yes. Detective John DeSchutter with Metro Police. First name is J-o-h-n; last name is spelled D-e-s-c-h-u-t-t-e-r. Im assigned to the Gang Unit and the Graffiti Investigation Section.

PHILIP BYRNES

Detective, were you present at Amazing Art on June 17th, 2010?

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JOHN DeSCHUTTER

Yes, I was.

PHILIP BYRNES

And were you there for the purpose of monitoring an undercover operation to determine whether graffiti implements were being sold to minors?

JOHN DeSCHUTTER

Yes, I was.

MAYOR GOODMAN

What date was that again, counsel?

PHILIP BYRNES

June, sorry, June 7, June 17th, 2010

MAYOR GOODMAN

Thats the same incident that Detective Schoen

PHILIP BYRNES

This is the same incident.

MAYOR GOODMAN

Okay. Fine.

PHILIP BYRNES

Did you enter the store at any time that day?

JOHN DeSCHUTTER

Yes, I did. I entered it after the decoy had left.

PHILIP BYRNES

Did you engage in conversation with Mr. Cooper?

JOHN DeSCHUTTER

Yes, I did.

PHILIP BYRNES

And could you describe that conversation.

JOHN DeSCHUTTER

I had a conversation with Mr. Cooper, as I was the officer in charge of issuing the citation. I let him know that he was in violation of City code for furnishing graffiti implements to minors. He stated he didnt iden, or check for I.D. or ask his age and that he was selling paint because he needed to make rent by the end of that day.

PHILIP BYRNES

Did you observe the signage in the store?

JOHN DeSCHUTTER

Yes, I observed it on that day, but I dont remember it off the top of my head.

PHILIP BYRNES

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Were there sign, was there signage on the display cases indicating that no sales to anyone under 18 without and were I.D. was required?

JOHN DeSCHUTTER

I cant say that I remember that off the top of my head.

PHILIP BYRNES

Id like to show you this photograph.

MAYOR GOODMAN

What exhibit is that?

PHILIP BYRNES

This is part of Exhibit No. 9.

MAYOR GOODMAN

Which page?

PHILIP BYRNES

It would be Exhibit 9, the third photograph. Third photograph, yes.

MAYOR GOODMAN

Youre referring to this, must be 18 with I.D.?

PHILIP BYRNES

Yes.

MAYOR GOODMAN

All right.

PHILIP BYRNES

Did you observe this signage at the store?

JOHN DeSCHUTTER

Yes, I did.

PHILIP BYRNES

Did you take these photographs?

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JOHN DeSCHUTTER

No. I didnt. My partner, Scott Black; Detective Scott Black did that.

PHILIP BYRNES

Okay. Thats all I have, Your Honor.

MAYOR GOODMAN

All right. Mr. Cooper, you have any question of the officer?

JAMES COOPER

Yes. I would, did we speak prior to the raid on the store, the sting operation on the store?

MAYOR GOODMAN

What was the date of that?

JAMES COOPER

I dont know exactly the date, but I had spoken to Detective DeSchutter concerning our legal wall. I procured (inaudible) and run a legal wall so that the people have something to paint on that is not illegal and not vandalism and actually produces works of art. And then I dont know at what time Im supposed to submit my evidence?

MAYOR GOODMAN

As soon as Mr. Byrne (sic) is through putting his evidence (inaudible).

JAMES COOPER

Okay. And then, I wanna, I dont know. You know, when I explained to you the economical situation of the, my, of my situation that day, could you understand or see why I would be in such imperative need to make the money that I had to make?

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JOHN DeSCHUTTER

I really dont know how to answer that. If youre asking that I understand that you broke the law, and you want me to say its okay, its, thats beyond me to give you permission to do anything like that.

JAMES COOPER

Oh, no, I wasnt. It was, in the day in question my landlord had come by and

MAYOR GOODMAN

Well, no , thats for a different time.

JAMES COOPER

Im sorry. I

MAYOR GOODMAN

Ask, if you have any other questions for the officer, this is the time to ask them.

JAMES COOPER

Do you feel that our, my business has contributed to the Las Vegas Art movement and the Arts District and the overall advancement of art in Las Vegas?

PHILIP BYRNES

Your Honor. Im not sure that thats a question this witness is capable

MAYOR GOODMAN

No, he

PHILIP BYRNES

of answering.

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MAYOR GOODMAN

can give us his opinion.

JOHN DeSCHUTTER

Well, I dont really know how to answer this. I would say he does participate with the legal wall down, downtown, participates with known artists, but he also has been caught furnishing illegal graffiti to the underage people, who were the ones who do the most costly graffiti damage. Last assessment, 31 million dollars in Nevada, as of 2008. So, I dont know how else to answer your question, Sir.

MAYOR GOODMAN

Well, you answered it.

JOHN DeSCHUTTER

Okay.

MAYOR GOODMAN

You stuck with your answer.

JAMES COOPER

May I?

MAYOR GOODMAN

Yepp.

JAMES COOPER

Has any time the police department asked me to cooperate with them in bringing to justice the people that paint or tag or vandalize the City in any sort of way; have they asked me to help them in any way with their problem besides the sales?

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JOHN DeSCHUTTER

No, we havent.

JAMES COOPER

And, then, I dont know when, you know, Im supposed to say, or what Im supposed to say, you know

MAYOR GOODMAN

When you have, as I said, when Mr. Byrnes is through with his witnesses, and youre through asking him questions, and Mr. Byrnes says, and the City rests., then youll have your opportunity to say whatever you wanna to say. (Inaudible) well, I went a little too far there, to

JAMES COOPER

Okay.

MAYOR GOODMAN

present your defense.

JAMES COOPER

Other than that, I really have no questions.

MAYOR GOODMAN

Okay. Any other questions, Mr. Byrnes?

PHILIP BYRNES

No, Your Honor. The City rests.

MAYOR GOODMAN

All right. Any other witnesses?

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PHILIP BYRNES

No, Your Honor. The City rests.

MAYOR GOODMAN

The City rests. All right. I think you got a big problem with your case. (Inaudible). I mean, I brought a machete with me today. If I was gonna vote against you, I was going to give you a choice. Lose your license or lose your thumb.

JAMES COOPER

How about a pinkie?

MAYOR GOODMAN

No. Im serious, but I gotta be honest with you. I, under the law, you tell me if Im wrong, Mr. Jerbic, it talks, in terms of without the consent of adults, and the testimony is that his parents consented. So (inaudible) law.

BRAD JERBIC

If I could? I thought that that could be an issue. That is not the way the law should be interpreted in this case, Your Honor, and Ill give you a legal opinion on that. There are two sections here: 10.48.090 and 10.48.095. 0, nine, 0 says, No person other than a responsible adult sell, shall sell, exchange, give, loan or any way furnish a graffiti implement to a minor without the minors responsible adult. There is only one reasonable interpretation of that, and that is that the store owner needs to know that the minors responsible adult has given permission. Thats why kids can go into Home Depot with their parents and buy spray paint. Thats why in individual, whos a minor, can go in and buy these implements. Its written differently than the tobacco statutes because the tobacco statutes, under no circumstances, can a minor buy a pack of cigarettes, even with the minors adults consent. But paint is different, and we say that they can, with the minors responsible adults consent. The next section, it talks about the minor shall have in his possession a graffiti implement without the permission or consent of the minors responsible adult. Same thing. If we catch a minor with it, we need to know that their parent has given permission. I think the defense that, because this individual worked with Metro, and by implication, must have had the consent of the minors

MAYOR GOODMAN

By implication, no

BRAD JERBIC

adult

MAYOR GOODMAN

No, its stated that his parents gave him consent. Thats stated in the record.

BRAD JERBIC

Right.

MAYOR GOODMAN

Thats what bothers me.

BRAD JERBIC

But I think its also in the record that Mr. Byrnes asked whether or not the adult that would have given that consent was present, at the time of the acquisition of the paint, and the answer to that question was no.

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MAYOR GOODMAN

But thats not required under the law. It says, without the consent of the minors responsible adult.

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BRAD JERBIC

Well

MAYOR GOODMAN

Thats a, plain language. I know what Id like to do for people who are engaged in graffiti that costs us millions of dollars a year, but I also want to follow the law. Thats where I am right now. Im sorry.

BRAD JERBIC

Im giving you my opinion.

MAYOR GOODMAN

Okay.

COUNCILMAN REESE

(Inaudible) vote.

MAYOR GOODMAN

Right. Im gonna take the vote, and then if I lose the vote, well go on with the defense. Im gonna move that the Complaint be dismissed.

COUNCILWOMAN TARKANIAN

Well, can I say something?

MAYOR GOODMAN

Sure.

COUNCILWOMAN TARKANIAN

(Inaudible)

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MAYOR GOODMAN

Sure. You can vote against it, too. Thats fine.

COUNCILWOMAN TARKANIAN

I know.

BRAD JERBIC

I think before we get into it, Councilwoman, I would just like to make a point of order here. Were not, at this point and time, debating the merits of whether the individual is liable or not liable for the Complaint. Its a technicality that the Mayor has raised. Hes making a motion to dismiss, based on the fact that he believes that said, under the law, without even going into the facts, under the law, there could not have possibly been a violation of the statute. Is that correct, Mayor?

MAYOR GOODMAN

That is correct.

BRAD JERBIC

I think that thats the only issue right now.

COUNCILWOMAN TARKANIAN

Of course, he didnt know if it, if his parents had or not, because he never even asked. And I would think that he should have asked.

MAYOR GOODMAN

Fine. Well, I made a motion and lets vote on that. Yes or No. Calling for the motion. Post.

COUNCILMAN BARLOW

Mayor, prior to the motion.

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MAYOR GOODMAN

Yes.

COUNCILMAN BARLOW

If you just restate the motion, just so that Im clear.

MAYOR GOODMAN

Im, basically, Im saying that I dont believe that the City has carried its burden of proof because of the fact that the record, to me, is uncontradicted, as far as parental consent, and that would be one of the requirements. And Im saying that the City hasnt met its burden; therefore, **Im moving to dismiss**. If you disagree with me, then you should vote No. If you agree with me, you should vote Yes.

COUNCILMAN BARLOW

Thank you.

MAYOR GOODMAN

Very good, and my feelings arent gonna be hurt. All right. Please vote. Post. Okay. Motion loses. **(Motion failed with BARLOW, TARKANIAN, REESE, ROSS and ANTHONY voting No.)** Mr.

COUNCILMAN REESE

I gotta make a comment here. You see that the attorneys are, you see who the, I guess, the other people just live out in the neighborhoods and see what goes on.

Now wait a minute wait here, Councilman, and I appreciate that, but I havent sat in courtrooms, so I dont understand, you know, all this legal that we go through each and every time we have items like this, that come before us. And Ive always appreciated the questions that you guys ask. I do; and I have, and I still do.

I just feel like this here. I dont want to see what happens because I feel like, the people I have seen, and Ive seen one person, he had a spray can, and he acted like he had sprayed before. If I could have caught him, I would have probably killed him, and I probably would have been in jail because it made me that mad.

And Ive just been fighting this graffiti issue for 16 years, and all Ive seen it do is go from bad to worse, to worse, to worse. And its just getting that way. And I hate to see anything happen on a technicality that I could probably vote yes or I could have voted no. But I wanted to vote no because I wanted to go ahead and hear this. I wanted to hear what this young man has to say in his own defense, so that I could make, to me, a decision, which I think will maybe benefit other people from going out there and trying to sell this graffiti paint and showing them how to do it. Thats what bothers me.

MAYOR GOODMAN

Okay.

COUNCILMAN REESE

Thank you.

MAYOR GOODMAN

Thank you. All right. Mr. Cooper, your turn to either call witnesses or to make an argument to convince the Council that you didnt do anything wrong.

JAMES COOPER

I didnt

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MAYOR GOODMAN
Do you have any witnesses?

JAMES COOPER
I dont have any witnesses

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MAYOR GOODMAN

Okay.

JAMES COOPER

but I thought I was going to make the money to have legal counsel and I

MAYOR GOODMAN

Okay. Do you want to testify now? Ill put you under oath if you want to testify or you can just say I want to make an argument to appeal to the Council.

JAMES COOPER

Well, I personally would like to testify

MAYOR GOODMAN

Thats fine.

JAMES COOPER

as to

MAYOR GOODMAN

Well let you testify then. Are you gonna tell the truth?

JAMES COOPER

Yes.

MAYOR GOODMAN

Okay, then testify, please. I like this (inaudible).

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JAMES COOPER

As far as the sales to the minor goes, I really didnt think that he was under 18. What he had said to me when he asked for paint, that he wanted something to really make your eyes bleed, was almost enough for me to refuse service to him at the, at that time. Then it crossed my mind that its probably not my right to tell somebody, if they are painting something, what color that they can paint it.

I do my very best to, even with that gentleman who did buy the paint; I offered him different colors of paint that would be less offensive. I offered him, you know, advice as to maybe that wouldnt go with that. I told him about our legal wall and his ability to paint the legal wall, that I thought he was still acting kind of strange, so I asked him if he was with the police department, had anything to do with the police department or if I would get in any trouble of any kind by selling him paint, and he said no. And then I sold him the paint. And I regret my mistake, and I am sorry.

But on a more personal level, I have done everything in my power to encourage people not to do illegal work; to encourage them to do legal work. I have provided place in my store and a place downtown for the expression of art and legal artwork. And other than that, I collected a picture, pictures of 170 different legal artworks that I have produced for Las Vegas and, you know, for the Art (sic) District, and for Ed Fountain Park and various other things. And it is my every intention to make Las Vegas a more beautiful place.

And then also I would like to state, for the record, that the police detectives have never asked me to cooperate with them in removing or helping them remove people that vandalize City property.

And I cant tell you on a personal level how frustrating it is when I go downtown and I clean up four garbage trucks full of trash or, you know, pick-up trucks full of trash. I paint a 320-foot wall by myself to provide something for the art community, and then I go down to look at my work, and I get off of the freeway and somebody has spray painted in a dollar can, that theyve got from Wal-Mart, sell spray paint for .99 cents. And they have a self check-out counter, is very easy for people to come across inexpensive spray paint. But I cant tell you how frustrating it is for me when I go to look at, you know, what Ive provided and what Ive worked so hard for, and then to have, you know, ink and wrecker spray painted on the Charleston underpass. And then have ink and wrecker spray painted on the other side of the Charleston underpass and then have ink and wrecker spray painted on the building, you know, down the street. And then I get to the legal wall, where Ive provided paint, and Ive provided service, and Ive provided hours and hours of work, to have them have painted over not in any kind of artwork but just in vandalism, ink and (inaudible) over the beautiful murals that the other people have spent a lot of time and money to produce. And I, you know, I dont know the person, personally, who writes ink on everything. I do believe that their (sic) names Marisol Lopez, and that she attends some high school here in Las Vegas. But I would more than be willing to work with the police or the City Council or whoever, in order to get the vandals

MAYOR GOODMAN

Okay. I think were going a little astray here.

JAMES COOPER

Im sorry.

MAYOR GOODMAN

No problem. Anything else?

COUNCILMAN BARLOW

Mayor Goodman.

MAYOR GOODMAN

Yes.

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JAMES COOPER

No.

MAYOR GOODMAN

Councilman Barlow.

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COUNCILMAN BARLOW

I just have a question for the gentleman.

MAYOR GOODMAN

Sure.

COUNCILMAN BARLOW

If you dont mind?

MAYOR GOODMAN

No, I dont mind at all.

COUNCILMAN BARLOW

Mr. Cooper. You mentioned when the gentleman came into your store, you asked him a number of questions, one being were you with the police. Why did you ask the gentleman if he was with the police? Can you explain?

JAMES COOPER

I asked him if he was with the police because he had said he wanted colors that would make peoples eyes hurt, and thats not generally a question that somebody would ask or something that they were looking for, and it made me suspicious as of his intentions as to what he was going to do with the paint.

I sell a very, you know, its \$8 a can, and its a low pressure paint, and it is not really used for, like if you were going to vandalize something, you know, its not the product that you would pick to vandalize something.

COUNCILMAN BARLOW

So help me understand why you would ask him if he was with the police because you asked, you just stated that he asked for a low pressure paint, but how is that synonymous with police?

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JAMES COOPER

Well, he had asked for a low pressure paint and colors that were going to make somebody's eyes hurt, and it made me suspicious of his intentions. So, I ask him, you know, being as I had already been in trouble once, I asked him if he was with police, you know, working with the police; or, if I would get in any trouble of any kind by selling him spray paint, because of desperately trying to stay out of trouble. And, but, you know

COUNCILMAN BARLOW

So, let me just stop you there. So, if you felt the hair on the back of your neck go up, or a question mark come up in your mind as to whatever reason he asked for the low pressure paint and that being synonymous with police, and you were concerned about selling him this paint, then why did you move forward to sell him the paint versus not selling the paint?

JAMES COOPER

About an hour before the gentleman came to buy the paint, my landlord had stopped by my store, as the fence did happen on the 17th, I had been served with a five-day notice on the sixth. The landlord was gracious enough to let me go until the 17th without posting an eviction notice. The landlord came by my store

COUNCILMAN BARLOW

Let me just stop you there cause I think you're getting a little bit off.

JAMES COOPER

Well, no, I, you know, please, let me continue with that. You ask why I would go ahead and sell him paint if the

COUNCILMAN BARLOW

So you needed money?

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JAMES COOPER

Well, yes. I had

COUNCILMAN BARLOW

Okay.

JAMES COOPER

two thousand

COUNCILMAN BARLOW

Then thats fine.

JAMES COOPER

one hundred and sixty-two dollars.

COUNCILMAN BARLOW

Thats fine. So, you established the fact that you were trying to get paid. Secondly, how often do you ask your patrons for their ID when they come in and purchase paint?

JAMES COOPER

I ask everybody, who looks roughly under the age of 20 years old, to provide ID on sales. And anybody who walks in the store who doesnt look like they would be of age, I tell them when they walk in, Im like, you gotta be 18 with a (sic) ID to buy paint, guys, 18 with an ID.

COUNCILMAN BARLOW

How often do you ask them for ID, prior to selling them paint?

JAMES COOPER

Usually right before I ring it up.

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COUNCILMAN BARLOW

So, at any point, did the gentleman who you sold the paint to look under 20?

JAMES COOPER

No. I offered to show you guys his picture. He

COUNCILMAN BARLOW

To you, did he look under 20?

JAMES COOPER

Not really. No.

COUNCILMAN BARLOW

Okay.

JAMES COOPER

He appeared to be in his 20s. He had full facial hair. He was taller than I am and wider than I am and he

COUNCILMAN BARLOW

Okay. Thats fine. Thats fine.

JAMES COOPER

appeared to be

COUNCILMAN BARLOW

Going back to the age and the question of whether or not the gentleman was with the police. Why didnt you ask him for his ID to, at least, calm your nerves, being that you needed the money, to calm your nerves, to make sure that you were within the parameter of the law to sell him the paint, being that your license allowed you to sell to 18 and over? Why didnt you ask him for his ID?

JAMES COOPER

I didnt ask him for his ID because I was afraid he would start in with some story that he had left it in the car or that, you know

COUNCILMAN BARLOW

Is his

JAMES COOPER

he didnt have it or

COUNCILMAN BARLOW

Is his excuse more

JAMES COOPER

he had left it at home

COUNCILMAN BARLOW

valuable than your license or is your value, or is your license more valuable than his excuse that you perceived him to tell you?

JAMES COOPER

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At the moment, if I didnt have 320 more dollars

COUNCILMAN BARLOW
So it was

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JAMES COOPER

by five oclock

COUNCILMAN BARLOW

about the money?

JAMES COOPER

my business would have been closed.

COUNCILMAN BARLOW

So , in essence, it was just about the money? So, you sold it to him because you needed the money?

JAMES COOPER

You know, I tried to make sure that I would not get into any trouble. He looked over age to me, and I did sell him the paint because I needed 320 more dollars by 5:00 or my business was closed.

COUNCILMAN BARLOW

Okay.

JAMES COOPER

And I have worked

COUNCILMAN BARLOW

Mayor.

MAYOR GOODMAN

Yes.

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JAMES COOPER

six years

COUNCILMAN BARLOW

Thank you so very much.

MAYOR GOODMAN

Very good. Councilman Ross, did you have questions?

COUNCILMAN ROSS

Thank you, Mayor. Thank you. Mr. Cooper, are you, Im gonna ask you this. I think I already know the answer. Are you aware of the millions of dollars that governments waste in graffiti abatement?

JAMES COOPER

Yes, I am, Sir.

COUNCILMAN ROSS

Do you know how straining that is on government budgets today?

JAMES COOPER

Yeah. Yes, I am.

COUNCILMAN ROSS

Then please answer for this Council and myself. Why on earth are you in the business of selling graffiti stuff, nozzles, tips, paint? I mean, why are you in that business? I appreciate youre artistic, and you have probably tremendous abilities. Well, you have an Arts District, and Im glad you mentioned that. Do you have oil painting, oil paint in your shop? Do you have clay in your shop? Do you have canvasses in your shop?

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JAMES COOPER

Yes, we do have canvasses; we have pastels; we have water colors; we have drawing books; we have marker sets, like we have a lot of other things that arent related to graffiti.

COUNCILMAN ROSS

I am challenged, however, looking at the photos in the backup from the investigation of your store, I dont see any of that. What I see are instruments to deface and destruct peoples property throughout this Valley. Thats what I see.

JAMES COOPER

It was my feeling from looking at the photos, I received a copy of the photos last night at five oclock and it was my feeling that the police really, when they took the photos, didnt give me, didnt take the picture. They didnt take any pictures of the art; they didnt take any pictures of the legal stuff. They took pictures of my back store room and they had took pictures of my underneath counter by my trash can and didnt take any pictures of the legal thing, you know, the regular art supplies and the legal artwork that I have hanging in my store, in an effort to make me look bad in front of you guys.

COUNCILMAN ROSS

Thank you.

JAMES COOPER

And then, like I had, was, you know, I tried to provide photos today but was unable to of those things, but, you know, if I would have been granted a later court hearing, all of the photos would have been included because I run a very nice store. When you walk into my store, it looks nice. Its kept clean, and I really try to provide something for Las Vegas that other, you know, other people dont really want.

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COUNCILMAN ROSS

Mayor, if I could. Mr. Cooper, I appreciate you being a small business owner, and we as local governments are doing everything we can to help our small business owners. That's what's gonna help our economy. That's what's gonna help us get back on track economically. I am challenged, however, by you even having to be here today. You shouldn't be here. If you were a legitimate business, doing legitimate things in this community, you wouldn't be here. And I'm challenged, and all of us are as Council members. The money we spend on fixing all these tags, all this graffiti throughout, throughout Southern Nevada. It bothers me deeply that we waste taxpayer money on something we don't have to. And it bothers me that you have a store where I can go buy that stuff, and you probably would teach me how to use it.

JAMES COOPER

As far as that goes, all of the products that are sold in our store, you can buy at many, many other stores. Blicks Art Supplies is right up from me. They sell Montana paint. They sell spray tips. They sell, sell (inaudible) markers. Wal-Mart sells dollar cans, and I would think that, you know, being in the business of art that I am in, if you guys wanted to really, really fight graffiti, and I'm not trying to sound facetious or like a jerk in any sort of way, but if they really wanted to cut down on the vandalism in the city, the Wal-Mart should not be permitted to sell spray cans for a dollar. And then there (sic) just far too easy for the people to steal, I mean, they get the spray cans, they come to the self check-out line, they scan a can of hair spray, and they drop a can of spray paint in the bag. And they scan a can of hair spray, and they drop a can of spray paint in the bag, and they walk out with just shopping carts full of cans that have only cost them a dollar a piece.

COUNCILMAN ROSS

You better stop there. We don't want to give anybody ideas on how to do it.

JAMES COOPER

Well

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COUNCILMAN ROSS

But let me

JAMES COOPER

Im not. I just

COUNCILMAN ROSS

I appreciate it. I appreciate your answer, Mr. Cooper. One more question, Mayor, and I appreciate your position on the technicality

MAYOR GOODMAN

No problem.

COUNCILMAN ROSS

of this issue, both you and Councilman Wolfson.

MAYOR GOODMAN

No problem.

COUNCILMAN ROSS

Now, this is to legal counsel. Todays statutes, our ordinances, 18 years old, I can be 18 years old and buy a can of spray paint. Is that correct?

BRAD JERBIC

Thats correct.

COUNCILMAN ROSS

How do we change that to 21 and what difference would that make?

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BRAD JERBIC

I dont know what difference it would make. The police department could probably identify it. I know in the findings made by the counsel at the beginning of this is that most graffiti is applied by individuals under the age of 18. Thats why that age was selected. And I suppose if you could show a record that most is applied by people under the age of 21, you could probably raise that age, but I know that there are a number of moving components to the statute. But I know that the findings that went into selecting the age 18 were a finding that most graffiti was applied by individuals under the age of 18.

COUNCILMAN ROSS

Isnt that interesting? You can be 18 and go serve your country but I brought up that you cant be 18 and buy paint. Isnt that amazing? What kind of society and city do we live in?

MAYOR GOODMAN

I dont know. I think you cant buy a Martini either.

COUNCILMAN ROSS

You can buy paint. Let me make that clear. You can. If youre under 18, you cant; 18 or over, you can. But I guess your question was could you move it from 18 to 21; that would depend on the record thats been established.

MAYOR GOODMAN

Councilman Anthony.

COUNCILMAN ANTHONY

Yeah, Bill, I have a couple of questions for you. Mr. Cooper received a citation for each incident, correct?

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PHILIP BYRNES

Correct, Your Honor. Correct, Councilman.

COUNCILMAN ANTHONY

And it went to Municipal Court?

PHILIP BYRNES

The earlier incident from 2009, it went to Municipal Court, and he was entered into a plea agreement. So hes found guilty.

COUNCILMAN ANTHONY

And so hes found guilty on his first incident.

PHILIP BYRNES

Yes.

COUNCILMAN ANTHONY

What about the second incident?

PHILIP BYRNES

The second is still pending.

COUNCILMAN ANTHONY

Okay. Thanks.

MAYOR GOODMAN

All right. Any other questions to the counsel?

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COUNCILWOMAN TARKANIAN

Yes.

MAYOR GOODMAN

All right. Councilwoman.

COUNCILWOMAN TARKANIAN

I would, I just wanted to follow up on what Stavros (sic) said. And that is, was he found guilty? Are you sure? My council (sic) next to me is saying he wasnt found guilty.

PHILIP BYRNES

He entered a plea, and hes currently on probation for that offense.

COUNCILWOMAN TARKANIAN

And so he entered a guilty plea.

PHILIP BYRNES

He submitted on the record, and hes currently on probation.

COUNCILMAN WOLFSON

Well submit on the record is different than being found guilty, and thats, you know, Im looking, with your permission Councilwoman and Mayor, Im looking at the backup right here in the court minutes on Citation C0746079A, violation description, graffiti implements with intent to vandalize, on January 25th of 2010; it was a submittal. Now, unless Im wrong, Mr. Jerbic, thats not a guilty plea.

JAMES COOPER

May I

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COUNCILMAN WOLFSON

Excuse me, thats not an adjudication. He wasnt found guilty.

BRAD JERBIC

The adjudication, I think, occurs at the end, but I need have Mr. Brynes correct the record. It depends what the probation is. I know that, and I appreciate your point, and I think we need to make this clear. Just because he did not contest the facts does not necessarily mean he pled guilty. And the probation may have at the end of it a condition that would allow it to be dismissed. I need to make that clear, for the record. Mr. Brynes, do you know the conditions of the probation and whether or not this is

COUNCILMAN WOLFSON

Right here, it says suspended sentence, one year, dismiss case upon completion. So, theres no guilty finding on this.

PHILIP BYRNES

He also forfeited his bail at that time, too.

COUNCILMAN WOLFSON

Well, Mr. Byrnes, you and I can debate this a lot, but Ill bet you a thousand bucks right now

BRAD JERBIC

I would

COUNCILMAN WOLFSON

on this one, Im right.

BRAD JERBIC

I would advise the Council

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COUNCILWOMAN TARKANIAN

Let me just say

COUNCILMAN WOLFSON

He hasn't been found guilty of this charge.

BRAD JERBIC

I would advise the Council, and I think Councilman Wolfson's right on this point, that at the end of the case, if he has not failed probation already on something that's happened, if he is still on probation, and if the condition is if he passes it, he will get a dismissal of the case, then there is not a final adjudication yet. So, right now, I would urge you to just consider the fact that there was a charge in municipal court, for which, and the facts speak for themselves, he did not challenge the record, submitted to probation with the condition that maybe dismiss, consider that and only that.

COUNCILMAN WOLFSON

Real quickly. He may very well be found guilty, but he hasn't been found guilty yet (inaudible).

MAYOR GOODMAN

All right.

COUNCILWOMAN TARKANIAN

All right. I'm not done.

MAYOR GOODMAN

Oh, okay.

COUNCILWOMAN TARKANIAN

The lawyer took over here. It, to me, the important thing is that if you were found guilty or not, you did sell a second time and were cited for selling earlier in February to a minor, right?

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JAMES COOPER

Yes, I was cited both times.

COUNCILWOMAN TARKANIAN

Cited for selling to a minor, and then there was a plea agreement that all these lawyers understand all that, but you were cited. You did sell to a minor at that time.

And the other thing I wanted to say that, you know, along with what Councilman Barlow said, if, it cant just be that you need money, and thats why you dont do due diligence. In other words, youre saying you didnt ask this man because you were concerned about you needed money in order to be able to pay your landlord in a few hours. And Im saying thats really not a reason or an excuse for not following the due diligence thats needed, as far as the age of the buyer is concerned.

Just as a matter of record, I would like to say that I asked Jace to look up the amount of monies that it did cost us; its 30 million dollars that it cost the Southern Nevada public entities, as well as the businesses for graffiti. Thats the amount of costs for correction of graffiti.

I also would like to point out, which probably doesnt mean anything to the lawyers, I know that area well. I lived near there, and I will tell you we had a burst, a large burst of graffiti in that area, and it lasted several months. And then all of a sudden, we werent seeing it. I mean we had seen it on the palm trees, on the utilities, up Alta, you know, which is a special SID. And we had difficulty being able to control that. Well, all of a sudden, it stopped and then it was covered; it didnt come again. It was a dribble, if anything, as far as the graffiti. And it wasnt until later that I found out that at that same time, that was when this store and this gentleman here was told that he could no longer be selling it at his store. So, it wasnt coming out of there, which I thought was of interest. May mean nothing to the lawyers, but I thought it was of interest. What I am pointively (sic) going to ask is this, if I could, Mr. Jerbic, does the law require the parents to give permission to the underage child or require that permission be given to the seller? And that might be a strange question but thats what I would ask.

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BRAD JERBIC

No, I think that is the (inaudible) question that goes right to the heart of the Mayors motion to dismiss. I believe that the adult has to consent to the purchase in front of the seller. The seller has to know that the parent or guardian has consented to the minors acquisition of the product.

COUNCILWOMAN TARKANIAN

Well that was my understanding of it before, but I wanted to check on that. Okay, thats about my last question.

MAYOR GOODMAN

Very good. Are there any other questions? All right. I dont think theres a need

COUNCILWOMAN TARKANIAN

(Inaudible) Councilman Barlow.

MAYOR GOODMAN

Oh, Im sorry, Councilman Barlow. No, I was gonna say I dont believe theres a need for any further argument. I think weve heard everything. I was going to ask the Councilwoman for a motion.

JAMES COOPER

Could I rebut to Ms. Tarkanians (sic) statement, or not rebut, but may I say, I live in the area also, and I work in the area, and I had noticed the increase in graffiti. And the reason, my belief is that the graffiti problem diminished and then turned almost into a triple is because we opened the legal wall, and people were legally allowed to paint. And then I put up, probably, 30 canvasses in the store and told people that they could write or paint on those, and then I ran a, I guess its 30-foot banner down the side wall inside the store and told people that if they wanted to paint or write that they could write there. So, then the graffiti that was on the street and in that area then like of the, I absorbed it. I mean, literally, literally, the, I, my store absorbed it.

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COUNCILWOMAN TARKANIAN

I dont know if youre aware that we have other places where you can do the graffiti type, what we call, urban art, and we have other places. It isnt just downtown. We even will have under the Tenaya underpass, eventually, a spot where we will have the urban art. And we have had the murals. Now our experience has been with the murals, that when we put the murals, theyre not graffiti. The only place we ever had any was right behind Mirabelli that, and weve had about 10 murals placed up in different places.

So, I dont know what happened there. All I know is, Im telling you, I dont know the timing of what you did, I just know the timing of what Im aware of.

I feel very strongly about this, and I must say that I will move to have action taken, how do I word this, **to have the license removed.**

MAYOR GOODMAN

All right. Councilman, did you want to be heard before we take a vote?

COUNCILMAN BARLOW

No, Mayor. I will be following Councilwoman Tarkanians recommendation.

MAYOR GOODMAN

Okay. Very good. All right. You heard the motion. Lets vote, please. Post. Motion carries. **(Motion carried with GOODMAN and WOLFSON voting No.)** Thank you, gentlemen.

PHILIP BYRNES

Your Honor, could I point out one matter for the Council?

MAYOR GOODMAN

Yes.

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PHILIP BYRNES

Pursuant to the Code, the order of revocation takes effect upon written service, unless the Council

MAYOR GOODMAN

You have to speak up.

PHILIP BYRNES

Im sorry. Pursuant to the Code, the order of revocation takes effect upon service of the written order, unless the Council provides otherwise. Is that acceptable to the Council?

MAYOR GOODMAN

When will the written order be prepared?

PHILIP BYRNES

We prepare it, we submit it for your signature and then formally served.

MAYOR GOODMAN

I think thats the best way to do it, probably, thatll be more formal. Thank you.

PHILIP BYRNES

Okay, thank you.

MAYOR GOODMAN

Thank you. Thats it. Thats it.

JAMES COOPER

Well, I brought you guys these pictures.

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MAYOR GOODMAN

Were through with this one.

JAMES COOPER

I know, but if youd like to look at em

MAYOR GOODMAN

Okay, thanks.

JAMES COOPER

therere 170 pictures of legal artwork that I am responsible for.

MAYOR GOODMAN

Thank you.

(END OF DISCUSSION)

/gpb/lc; ac