

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent/Cross-Appellant.

No. 84345

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Aug 25 2022 01:45 p.m.
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**JOINT APPENDIX,
VOLUME NO. 48**

LAW OFFICES OF KERMITT L. WATERS

Kermitt L. Waters, Esq.

Nevada Bar No. 2571

kermitt@kermittwaters.com

James J. Leavitt, Esq.

Nevada Bar No. 6032

jim@kermittwaters.com

Michael A. Schneider, Esq.

Nevada Bar No. 8887

michael@kermittwaters.com

Autumn L. Waters, Esq.

Nevada Bar No. 8917

autumn@kermittwaters.com

704 South Ninth Street

Las Vegas, Nevada 89101

Telephone: (702) 733-8877

*Attorneys for 180 Land Co., LLC and
Fore Stars, Ltd.*

LAS VEGAS CITY ATTORNEY'S OFFICE

Bryan K. Scott, Esq.

Nevada Bar No. 4381

bscott@lasvegasnevada.gov

Philip R. Byrnes, Esq.

pbyrnes@lasvegasnevada.gov

Nevada Bar No. 166

Rebecca Wolfson, Esq.

rwolfson@lasvegasnevada.gov

Nevada Bar No. 14132

495 S. Main Street, 6th Floor

Las Vegas, Nevada 89101

Telephone: (702) 229-6629

Attorneys for City of Las Vegas

CLAGGETT & SYKES LAW FIRM

Micah S. Echols, Esq.

Nevada Bar No. 8437

micah@claggettlaw.com

4101 Meadows Lane, Suite 100

Las Vegas, Nevada 89107

(702) 655-2346 – Telephone

*Attorneys for 180 Land Co., LLC and
Fore Stars, Ltd.*

McDONALD CARANO LLP

George F. Ogilvie III, Esq.

Nevada Bar No. 3552

gogilvie@mcdonaldcarano.com

Amanda C. Yen, Esq.

ayen@mcdonaldcarano.com

Nevada Bar No. 9726

Christopher Molina, Esq.

cmolina@mcdonaldcarano.com

Nevada Bar No. 14092

2300 W. Sahara Ave., Ste. 1200

Las Vegas, Nevada 89102

Telephone: (702) 873-4100

LEONARD LAW, PC

Debbie Leonard, Esq.

debbie@leonardlawpc.com

Nevada Bar No. 8260

955 S. Virginia Street Ste. 220

Reno, Nevada 89502

Telephone: (775) 964.4656

SHUTE, MIHALY & WEINBERGER, LLP

Andrew W. Schwartz, Esq.

schwartz@smwlaw.com

California Bar No. 87699

(admitted pro hac vice)

Lauren M. Tarpey, Esq.

ltarpey@smwlaw.com

California Bar No. 321775

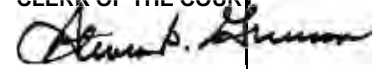
(admitted pro hac vice)

396 Hayes Street

San Francisco, California 94102

Telephone: (415) 552-7272

Attorneys for City of Las Vegas



APPN
LAW OFFICES OF KERMITT L. WATERS

Kermitt L. Waters, Esq., Bar No. 2571
kermitt@kermittwaters.com
James J. Leavitt, Esq., Bar No. 6032
jim@kermittwaters.com
Michael A. Schneider, Esq., Bar No. 8887
michael@kermittwaters.com
Autumn L. Waters, Esq., Bar No. 8917
autumn@kermittwaters.com
704 South Ninth Street
Las Vegas, Nevada 89101
Telephone: (702) 733-8877
Facsimile: (702) 731-1964

Attorneys for Plaintiff Landowners

DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO., LLC, a Nevada limited liability
company, FORE STARS, LTD., DOE INDIVIDUALS,
ROE CORPORATIONS I through X, and ROE
LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of the
State of Nevada, ROE government entities I
through X, ROE CORPORATIONS I through X,
ROE INDIVIDUALS I through X, ROE LIMITED
LIABILITY COMPANIES I through X, ROE
quasi-governmental entities I through X,

Defendants.

CASE NO.: A-17-758528-J
DEPT. NO.: XVI

**APPENDIX OF EXHIBITS IN
SUPPORT OF PLAINTIFF
LANDOWNERS' MOTION TO
DETERMINE TAKE AND FOR
SUMMARY JUDGMENT ON
THE FIRST, THIRD AND
FOURTH CLAIMS FOR RELIEF**

VOLUME 13

Plaintiff Landowners hereby submit this Appendix of Exhibits in Support of Their
Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for
Relief.

Exhibit No.	Description	Vol. No.	Bates No.
1	Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners' Motion to Determine "Property Interest"	1	000001-000005
2	Map 1 of 250 Acre Land	1	000006

3	Map 2 of 250 Acre Land	1	000007
4	Notice of Related Cases	1	000008-000012
5	April 15, 1981 City Commission Minutes	1	000013-000050
6	December 20, 1984 City of Las Vegas Planning Commission hearing on General Plan Update	1	000051-000151
7	Findings of Fact and Conclusions of Law Regarding Plaintiffs' Motion for New Trial, Motion to Alter or Amend and/or Reconsider the Findings of Fact and Conclusions of Law, Motion to Stay Pending Nevada Supreme Court Directives	2	000152-000164
8	ORDER GRANTING the Landowners' Countermotion to Amend/Supplement the Pleadings; DENYING the Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims	2	000165-000188
9	City's Opposition to Motion to Determine "Property Interest"	2	000189-000216
10	City of Las Vegas' Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims	2	000217-000230
11	Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition	2	000231-000282
12	Supreme Court Order Denying Petition for Writ of Mandamus or Prohibition	2	000283-000284
13	Supreme Court Order Denying Rehearing	2	000285-000286
14	Supreme Court Order Denying En Banc Reconsideration	2	000287-000288
15	Motion to Dismiss Complaint for Declaratory and Injunctive Relief and in Inverse Condemnation, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000289-000308
16	City's Sur Reply Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint for Declaratory and Injunctive Relief and Inverse Condemnation, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000309-000319

17	City's Proposed Findings of Fact and Conclusion of Law Granting City's Motion to Dismiss Complaint, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000320-000340
18	Order Denying City of Las Vegas' Motion to Dismiss, <i>Fore Stars, Ltd. Seventy Acres, LLC v. City of Las Vegas, et al.</i> , Case No. A-18-773268-C	2	000341-000350
19	City of Las Vegas' Motion to Dismiss, <i>180 Land Co., LLC v. City of Las Vegas, et al.</i> , Case No. A-18-775804-J	2	000351-000378
20	2.15.19 Minute Order re City's Motion to Dismiss	2	000379
21	Respondents' Answer Brief, Supreme Court Case No. 75481	2	000380-000449
22	Order Granting Plaintiffs' Petition for Judicial Review, <i>Jack B. Binion, et al vs. The City of Las Vegas</i> , Case No. A-17-752344-J	2	000450-000463
23	Supreme Court Order of Reversal	2	000464-000470
24	Supreme Court Order Denying Rehearing	2	000471-000472
25	Supreme Court Order Denying En Banc Reconsideration	2	000473-000475
26	Findings of Fact, Conclusions of Law and Judgment Granting Defendants Fore Stars, Ltd., 180 Land Co LLC, Seventy Acres LLC, EHB Companies LLC, Yohan Lowie, Vickie Dehart and Frank Pankratz's NRCP 12(b)(5) Motion to Dismiss Plaintiffs' Amended Complaint	2	000476-000500
27	Notice of Entry of Findings of Fact, Conclusions of Law, Final Order of Judgment, <i>Robert Peccole, et al v. Peccole Nevada Corporation, et al.</i> , Case No. A-16-739654-C	2	000501-000545
28	Supreme Court Order of Affirmance	2	000546-000550
29	Supreme Court Order Denying Rehearing	2	000551-000553
30	November 1, 2016 Badlands Homeowners Meeting Transcript	2	000554-000562
31	June 13, 2017 Planning Commission Meeting Verbatim Transcript	2	000563-000566
32	Notice of Entry of Findings of Fact and Conclusions of Law Granting City of Las Vegas' Motion for Summary Judgment, <i>180 Land Co. LLC, et al v. City of Las Vegas</i> , Case No. A-18-780184-C	3	000567-000604

33	June 21, 2017 City Council Meeting Combined Verbatim Transcript	3	000605-000732
34	Declaration of Yohan Lowie	3	000733-000739
35	Declaration of Yohan Lowie in Support of Plaintiff Landowners' Motion for New Trial and Amend Related to: Judge Herndon's Findings of Fact and Conclusion of Law Granting City of Las Vegas' Motion for Summary Judgment, Entered on December 30, 2020	3	000740-000741
36	Master Declaration of Covenants, Conditions Restrictions and Easements for Queensridge	3	000742-000894
37	Queensridge Master Planned Community Standards - Section C (Custom Lot Design Guidelines)	3	000895-000896
38	Custom Lots at Queensridge Purchase Agreement, Earnest Money Receipt and Escrow Instructions	3	000897-000907
39	Public Offering Statement for Queensridge North (Custom Lots)	4	000908-000915
40	Deposition of Yohan Lowie, <i>In the Matter of Binion v. Fore Stars</i>	4	000916-000970
41	The City of Las Vegas' Response to Requests for Production of Documents, Set One	4	000971-000987
42	Respondent City of Las Vegas' Answering Brief, <i>Jack B. Binion, et al v. The City of Las Vegas, et al.</i> , Case No. 17-752344-J	4	000988-001018
43	Ordinance No. 5353	4	001019-001100
44	Original Grant, Bargain and Sale Deed	4	001101-001105
45	May 23, 2016 Par 4 Golf Management, Inc.'s letter to Fore Stars, Ltd. re Termination of Lease	4	001106-001107
46	December 1, 2016 Elite Golf Management letter to Mr. Yohan Lowie re: Badlands Golf Club	4	001108
47	October 30, 2018 Deposition of Keith Flatt, <i>Fore Stars, Ltd. v. Allen G. Nel</i> , Case No. A-16-748359-C	4	001109-001159
48	Declaration of Christopher L. Kaempfer	4	001160-001163
49	Clark County Real Property Tax Values	4	001164-001179
50	Clark County Tax Assessor's Property Account Inquiry - Summary Screen	4	001180-001181
51	Assessor's Summary of Taxable Values	5	001182-001183
52	State Board of Equalization Assessor Valuation	5	001184-001189

53	June 21, 2017 City Council Meeting Combined Verbatim Transcript	5	001190-001317
54	August 2, 2017 City Council Meeting Combined Verbatim Transcript	5	001318-001472
55	City Required Concessions signed by Yohan Lowie	5	001473
56	Badlands Development Agreement CLV Comments	5	001474-001521
57	Development Agreement for the Two Fifty, Section Four, Maintenance of the Community	5	001522-001529
58	Development Agreement for the Two Fifty	5	001530-001584
59	The Two Fifty Design Guidelines, Development Standards and Uses	5	001585-001597
60	The Two Fifty Development Agreement's Executive Summary	5	001598
61	Development Agreement for the Forest at Queensridge and Orchestra Village at Queensridge	5	001599-002246
62	Department of Planning Statement of Financial Interest	6	002247-002267
63	December 27, 2016 Justification Letter for General Plan Amendment of Parcel No. 138-31-702-002 from Yohan Lowie to Tom Perrigo	6	002268-002270
64	Department of Planning Statement of Financial Interest	6	002271-002273
65	January 1, 2017 Revised Justification letter for Waiver on 34.07 Acre Portion of Parcel No. 138-31-702-002 to Tom Perrigo from Yohan Lowie	6	002274-002275
66	Department of Planning Statement of Financial Interest	6	002276-002279
67	Department of Planning Statement of Financial Interest	6	002280-002290
68	Site Plan for Site Development Review, Parcel 1 @ the 180, a portion of APN 138-31-702-002	6	002291-002306
69	December 12, 2016 Revised Justification Letter for Tentative Map and Site Development Plan Review on 61 Lot Subdivision to Tom Perrigo from Yohan Lowie	6	002307-002308
70	Custom Lots at Queensridge North Purchase Agreement, Earnest Money Receipt and Escrow Instructions	7	002309-002501

71	Location and Aerial Maps	7	002502-002503
72	City Photos of Southeast Corner of Alta Drive and Hualapai Way	7	002504-002512
73	February 14, 2017 Planning Commission Staff Recommendations	7	002513-002538
74	June 21, 2017 Planning Commission Staff Recommendations	7	002539-002565
75	February 14, 2017 Planning Commission Meeting Verbatim Transcript	7	002566-002645
76	June 21, 2017 Minute re: City Council Meeting	7	002646-002651
77	June 21, 2017 City Council Staff Recommendations	7	002652-002677
78	August 2, 2017 City Council Agenda Summary Page	7	002678-002680
79	Department of Planning Statement of Financial Interest	7	002681-002703
80	Bill No. 2017-22	7	002704-002706
81	Development Agreement for the Two Fifty	7	002707-002755
82	Addendum to the Development Agreement for the Two Fifty	8	002756
83	The Two Fifty Design Guidelines, Development Standards and Permitted Uses	8	002757-002772
84	May 22, 2017 Justification letter for Development Agreement of The Two Fifty, from Yohan Lowie to Tom Perrigo	8	002773-002774
85	Aerial Map of Subject Property	8	002775-002776
86	June 21, 2017 emails between LuAnn D. Holmes and City Clerk Deputies	8	002777-002782
87	Flood Damage Control	8	002783-002809
88	June 28, 2016 Reasons for Access Points off Hualapai Way and Rampart Blvd. letter from Mark Colloton, Architect, to Victor Balanos	8	002810-002815
89	August 24, 2017 Access Denial letter from City of Las Vegas to Vickie Dehart	8	002816
90	19.16.100 Site Development Plan Review	8	002817-002821
91	8.10.17 Application for Walls, Fences, or Retaining Walls	8	002822-002829
92	August 24, 2017 City of Las Vegas Building Permit Fence Denial letter	8	002830

93	June 28, 2017 City of Las Vegas letter to Yohan Lowie Re Abeyance Item - TMP-68482 - Tentative Map - Public Hearing City Council Meeting of June 21, 2017	8	002831-002834
94	Declaration of Vickie Dehart, <i>Jack B. Binion, et al. v. Fore Stars, Ltd.</i> , Case No. A-15-729053-B	8	002835-002837
95	Supreme Court Order of Affirmance, <i>David Johnson, et al. v. McCarran International Airport, et al.</i> , Case No. 53677	8	002838-002845
96	De Facto Taking Case Law From State and Federal Jurisdictions	8	002846-002848
97	Department of Planning Application/Petition Form	8	002849-002986
98	11.30.17 letter to City of Las Vegas Re: 180 Land Co LLC ("Applicant"t - Justification Letter for General Plan Amendment [SUBMITTED UNDER PROTEST] to Assessor's Parcel ("APN(st") 138-31-601-008, 138-31- 702-003, 138-31-702-004 (consisting of 132.92 acres collectively "Property"t - from PR-OS (Park, Recreation and Open Space) to ML (Medium Low Density Residential) as part of applications under PRJ-11990, PRJ-11991, and PRJ-71992	8	002987-002989
99	January 9, 2018 City Council Staff Recommendations	8	002990-003001
100	Item #44 - Staff Report for SDR-72005 [PRJ-71990] - amended condition #6 (renumbered to #7 with added condition)	8	003002
101	January 9, 2018 WVR-72007 Staff Recommendations	8	003003-003027
102	January 9, 2018 WVR-72004, SDR-72005 Staff Recommendations	8	003028-003051
103	January 9, 2018 WVR-72010 Staff Recommendations	8	003052-003074
104	February 21, 2018 City Council Meeting Verbatim Transcript	8	003075-003108
105	May 17, 2018 City of Las Vegas Letter re Abeyance - TMP-72012 [PRJ-71992] - Tentative Map Related to WVR-72010 and SDR-72011	9	003109-003118
106	May 16, 2018 Council Meeting Verbatim Transcript	9	003119-003192
107	Bill No. 2018-5, Ordinance 6617	9	003193-003201

1	108	Bill No. 2018-24, Ordinance 6650	9	003202-003217
2	109	November 7, 2018 City Council Meeting Verbatim Transcript	9	003218-003363
3	110	October 15, 2018 Recommending Committee Meeting Verbatim Transcript	9	003364-003392
4	111	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 1 of 2)	10	003393-003590
5	112	October 15, 2018 Kaempfer Crowell Letter re: Proposed Bill No. 2018-24 (part 2 of 2)	11	003591-003843
6	113	July 17, 2018 Hutchison & Steffen letter re Agenda Item Number 86 to Las Vegas City Attorney	11	003844-003846
7	114	5.16.18 City Council Meeting Verbatim Transcript	11	003847-003867
8	115	5.14.18 Bill No. 2018-5, Councilwoman Fiore Opening Statement	11	003868-003873
9	116	May 14, 2018 Recommending Committee Meeting Verbatim Transcript	11	003874-003913
10	117	August 13, 2018 Meeting Minutes	11	003914-003919
11	118	November 7, 2018 transcript In the Matter of Las Vegas City Council Meeting, Agenda Item 50, Bill No. 2018-24	12	003920-004153
12	119	September 4, 2018 Recommending Committee Meeting Verbatim Transcript	12	004154-004219
13	120	State of Nevada State Board of Equalization Notice of Decision, <i>In the Matter of Fore Star Ltd., et al.</i>	12	004220-004224
14	121	August 29, 2018 Bob Coffin email re Recommend and Vote for Ordinance Bill 2108-24	12	004225
15	122	April 6, 2017 Email between Terry Murphy and Bob Coffin	12	004226-004233
16	123	March 27, 2017 letter from City of Las Vegas to Todd S. Polikoff	12	004234-004235
17	124	February 14, 2017 Planning Commission Meeting Verbatim Transcript	12	004236-004237
18	125	Steve Seroka Campaign letter	12	004238-004243
19	126	Coffin Facebook Posts	12	004244-004245
20	127	September 17, 2018 Coffin text messages	12	004246-004257
21	128	September 26, 2018 email to Steve Seroka re: meeting with Craig Billings	12	004258

129	Letter to Mr. Peter Lowenstein re: City's Justification	12	004259-004261
130	August 30, 2018 email between City Employees	12	004262-004270
131	February 15, 2017 City Council Meeting Verbatim Transcript	12	004271-004398
132	May 14, 2018 Councilman Fiore Opening Statement	12	004399-004404
133	Map of Peccole Ranch Conceptual Master Plan (PRCMP)	12	004405
134	December 30, 2014 letter to Frank Pankratz re: zoning verification	12	004406
135	May 16, 2018 City Council Meeting Verbatim Transcript	13	004407-004480
136	June 21, 2018 Transcription of Recorded Homeowners Association Meeting	13	004481-004554
137	Pictures of recreational use by the public of the Subject Property	13	004555-004559
138	Appellees' Opposition Brief and Cross-Brief, <i>Del Monte Dunes at Monterey, Ltd., et al. v. City of Monterey</i>	13	004560-004575
139	Respondent City of Las Vegas' Answering Brief, <i>Binion, et al. v. City of Las Vegas, et al.</i>	13	004576-004578
140	Grant, Bargain and Sale Deed	13	004579-004583
141	City's Land Use Hierarchy Chart	13	004584
142	August 3, 2017 deposition of Bob Beers, pgs. 31-36 - <i>The Matter of Binion v. Fore Stars</i>	13	004585-004587
143	November 2, 2016 email between Frank A. Schreck and George West III	13	004588
144	January 9, 2018 email between Steven Seroka and Joseph Volmar re: Opioid suit	13	004589-004592
145	May 2, 2018 email between Forrest Richardson and Steven Seroka re Las Vegas Badlands Consulting/Proposal	13	004593-004594
146	November 16, 2017 email between Steven Seroka and Frank Schreck	13	004595-004597
147	June 20, 2017 representation letter to Councilman Bob Coffin from Jimmerson Law Firm	13	004598-004600

148	September 6, 2017, City Council Verbatim Transcript	13	004601-004663
149	December 17, 2015 LVRJ Article, Group that includes rich and famous files suit over condo plans	13	004664-04668
150	Affidavit of Donald Richards with referenced pictures attached	14, 15, 16	004669-004830

DATED this 26th day of March, 2021.

LAW OFFICES OF KERMITT L. WATERS

By: /s/ Kermit L. Waters
 Kermit L. Waters, Esq.
 Nevada Bar No. 2571
 James J. Leavitt, Esq.
 Nevada Bar No. 6032
 Michael A. Schneider, Esq.
 Nevada Bar No. 8887
 Autumn L. Waters, Esq.
 Nevada Bar No. 8917

Attorneys for Plaintiff Landowners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and that on the 26th day of March, 2021, pursuant to NRCP 5(b) and EDCR 8.05(f), a true and correct copy of the foregoing document(s): **APPENDIX OF EXHIBITS IN SUPPORT OF PLAINTIFF LANDOWNERS' MOTION TO DETERMINE TAKE AND FOR SUMMARY JUDGMENT ON THE FIRST, THIRD AND FOURTH CLAIMS FOR RELIEF - VOLUME 13** was made by electronic means pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail and addressed to each of the following:

MCDONALD CARANO LLP
George F. Ogilvie III
Amanda C. Yen
2300 W. Sahara Ave., Suite 1200
Las Vegas, Nevada 89102
gogilvie@mcdonaldcarano.com
ayen@mcdonaldcarano.com

SHUTE, MIHALY & WEINBERGER, LLP
Andrew W. Schwartz, Esq.
Lauren M. Tarpey, Esq.
396 Hayes Street
San Francisco, California 94102
schwartz@smwlaw.com
ltarpey@smwlaw.com

LAS VEGAS CITY ATTORNEY'S OFFICE
Bryan K. Scott, City Attorney
Philip R. Byrnes
Seth T. Floyd
495 S. Main Street, 6th Floor
Las Vegas, Nevada 89101
pbyrnes@lasvegasnevada.gov
sfloyd@lasvegasnevada.gov

/s/ Evelyn Washington
Evelyn Washington, an employee of the
Law Offices of Kermitt L. Waters

Exhibit 135

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1 **ITEM 71 - For Possible Action - Any items from the afternoon session that the Council,**
2 **staff and /or the applicant wish to be stricken, tabled, withdrawn or held in abeyance to a**
3 **future meeting may be brought forward and acted upon at this time**
4 **Agenda Item 71, for possible action, any items Council, Staff and/or applicant wish to be**
5 **stricken, tabled, withdrawn, held in abeyance to a future meeting may be brought forward**
6 **and acted upon at this time.**

7
8 **ITEM 74 - GPA-72220 - ABEYANCE ITEM - GENERAL PLAN AMENDMENT -**
9 **PUBLIC HEARING - APPLICANT/OWNER: 180 LAND CO, LLC - For possible action**
10 **on a request for a General Plan Amendment FROM: PR-OS**
11 **(PARKS/RECREATION/OPEN SPACE) TO: ML (MEDIUM LOW DENSITY**
12 **RESIDENTIAL) on 132.92 acres on the east side of Hualapai Way, approximately 830 feet**
13 **north of Charleston Boulevard (APNs 138-31-601-008; and 138-31-702-003 and 004), Ward**
14 **2 (Seroka) [PRJ-72218]. The Planning Commission vote resulted in a tie, which is**
15 **tantamount to a recommendation of DENIAL. Staff recommends APPROVAL.**

16
17 **ITEM 75 - WVR-72004 - ABEYANCE ITEM - WAIVER - PUBLIC HEARING -**
18 **APPLICANT/OWNER: 180 LAND CO, LLC, ET AL - For possible action on a request for**
19 **a Waiver TO ALLOW 40-FOOT PRIVATE STREETS WITH NO SIDEWALKS WHERE**
20 **47-FOOT PRIVATE STREETS WITH FIVE-FOOT SIDEWALKS ON BOTH SIDES**
21 **ARE REQUIRED WITHIN A PROPOSED GATED RESIDENTIAL DEVELOPMENT on**
22 **a portion of 71.91 acres on the north side of Verlaine Court, east of Regents Park Road**
23 **(APN 138-31-601-008; 138-32-202-001; 138-32-210-008; and 138-32-301-007), R-PD7**
24 **(Residential Planned Development - 7 Units per Acre) and PD (Planned Development)**
25 **Zones, Ward 2 (Seroka) [PRJ-71990]. The Planning Commission (4-2-1 vote) and Staff**
26 **recommend APPROVAL.**

27
28 **ITEM 76 - SDR-72005 - ABEYANCE ITEM - SITE DEVELOPMENT PLAN REVIEW**
29 **RELATED TO WVR-72004 - PUBLIC HEARING - APPLICANT/OWNER: 180 LAND**

CITY COUNCIL MEETING OF

MAY 16, 2018

VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

30 **CO, LLC, ET AL - For possible action on a request for a Site Development Plan Review**
31 **FOR A PROPOSED 75-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT on a**
32 **portion of 71.91 acres on the north side of Verlaine Court, east of Regents Park Road**
33 **(APNs 138-31-601-008; 138-32-202-001; 138-32-210-008; and 138-32-301-007), R-PD7**
34 **(Residential Planned Development - 7 Units per Acre) and PD (Planned Development)**
35 **Zones, Ward 2 (Seroka) [PRJ-71990]. The Planning Commission (4-2-1 vote) and Staff**
36 **recommend APPROVAL.**

37
38 **ITEM 77 - TMP-72006 - ABEYANCE ITEM - TENTATIVE MAP RELATED TO WVR-**
39 **72004 AND SDR-72005 - PARCEL 2 @ THE 180 - PUBLIC HEARING -**
40 **APPLICANT/OWNER: 180 LAND CO, LLC - For possible action on a request for a**
41 **Tentative Map FOR A 75-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on**
42 **22.19 acres on the north side of Verlaine Court, east of Regents Park Road (APN 138-31-**
43 **601-008), R-PD7 (Residential Planned Development - 7 Units per Acre) Zone, Ward 2**
44 **(Seroka) [PRJ-71990]. The Planning Commission (4-2-1 vote) and Staff recommend**
45 **APPROVAL.**

46
47 **ITEM 78 - WVR-72007 - ABEYANCE ITEM - WAIVER - PUBLIC HEARING -**
48 **APPLICANT/OWNER: 180 LAND CO, LLC, ET AL - For possible action on a request for**
49 **a Waiver TO ALLOW 40-FOOT PRIVATE STREETS WITH NO SIDEWALKS WHERE**
50 **47-FOOT PRIVATE STREETS WITH FIVE-FOOT SIDEWALKS ON BOTH SIDES**
51 **ARE REQUIRED on a portion of 126.65 acres on the east side of Hualapai Way,**
52 **approximately 830 feet north of Charleston Boulevard (APN 138-31-702-003; 138-32-202-**
53 **001; 138-32-210-008; and 138-32-301-007), R-PD7 (Residential Planned Development - 7**
54 **Units per Acre) and PD (Planned Development) Zones, Ward 2 (Seroka) [PRJ-71991]. The**
55 **Planning Commission (4-2-1 vote) and Staff recommend APPROVAL.**

56
57 **ITEM 79 - SDR-72008 - ABEYANCE ITEM - SITE DEVELOPMENT PLAN REVIEW**
58 **RELATED TO WVR-72007 - PUBLIC HEARING - APPLICANT/OWNER: 180 LAND**

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

59 **CO, LLC, ET AL - For possible action on a request for a Site Development Plan Review**
60 **FOR A PROPOSED 106-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT on a**
61 **portion of 126.65 acres on the east side of Hualapai Way, approximately 830 feet north of**
62 **Charleston Boulevard (APNs 138-31-702-003; 138-32-202-001; 138-32-210-008; and 138-32-**
63 **301-007), R-PD7 (Residential Planned Development - 7 Units per Acre) and PD (Planned**
64 **Development) Zones, Ward 2 (Seroka) [PRJ-71991]. The Planning Commission (4-2-1**
65 **vote) and Staff recommend APPROVAL.**

66
67 **ITEM 80 - TMP-72009 - ABEYANCE ITEM - TENTATIVE MAP RELATED TO WVR-**
68 **72007 AND SDR-72008 - PARCEL 3 @ THE 180 - PUBLIC HEARING -**
69 **APPLICANT/OWNER: 180 LAND CO, LLC - For possible action on a request for a**
70 **Tentative Map FOR A 106-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on**
71 **76.93 acres on the east side of Hualapai Way, approximately 830 feet north of Charleston**
72 **Boulevard (APN 138-31-702-003), R-PD7 (Residential Planned Development - 7 Units per**
73 **Acre) Zone, Ward 2 (Seroka) [PRJ-71991]. The Planning Commission (4-2-1 vote) and**
74 **Staff recommend APPROVAL.**

75
76 **ITEM 81 - WVR-72010 - ABEYANCE ITEM - WAIVER - PUBLIC HEARING -**
77 **APPLICANT/OWNER: 180 LAND CO, LLC, ET AL - For possible action on a request for**
78 **a Waiver TO ALLOW 40-FOOT PRIVATE STREETS WITH NO SIDEWALKS WHERE**
79 **47-FOOT PRIVATE STREETS WITH FIVE-FOOT SIDEWALKS ON BOTH SIDES**
80 **ARE REQUIRED WITHIN A PROPOSED GATED RESIDENTIAL DEVELOPMENT on**
81 **a portion of 83.52 acres on the east side of Palace Court, approximately 330 feet north of**
82 **Charleston Boulevard (APN 138-31-702-004; 138-32-202-001; 138-32-210-008; and 138-32-**
83 **301-007), R-PD7 (Residential Planned Development - 7 Units per Acre) and PD (Planned**
84 **Development) Zones, Ward 2 (Seroka) [PRJ-71992]. The Planning Commission (4-2-1**
85 **vote) and Staff recommend APPROVAL.**

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

86 **ITEM 82 - SDR-72011 - ABEYANCE ITEM - SITE DEVELOPMENT PLAN REVIEW**
87 **RELATED TO WVR-72010 - PUBLIC HEARING - APPLICANT/OWNER: 180 LAND**
88 **CO, LLC, ET AL - For possible action on a request for a Site Development Plan Review**
89 **FOR A PROPOSED 53-LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT on a**
90 **portion of 83.52 acres on the east side of Palace Court, approximately 330 feet north of**
91 **Charleston Boulevard (APNs 138-31-702-004; 138-32-202-001; 138-32-210-008; and 138-32-**
92 **301-007), R-PD7 (Residential Planned Development - 7 Units per Acre) and PD (Planned**
93 **Development) Zones, Ward 2 (Seroka) [PRJ-71992]. The Planning Commission (4-2-1**
94 **vote) and Staff recommend APPROVAL.**

95
96 **ITEM 83 - TMP-72012 - ABEYANCE ITEM - TENTATIVE MAP RELATED TO WVR-**
97 **72010 AND SDR-72011 - PARCEL 4 @ THE 180 - PUBLIC HEARING -**
98 **APPLICANT/OWNER: 180 LAND CO, LLC - For possible action on a request for a**
99 **Tentative Map FOR A 53-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION on**
100 **33.80 acres on the east side of Palace Court, approximately 330 feet north of Charleston**
101 **Boulevard (APN 138-31-702-004), R-PD7 (Residential Planned Development - 7 Units per**
102 **Acre) and PD (Planned Development) Zones, Ward 2 (Seroka) [PRJ-71992]. The Planning**
103 **Commission (4-2-1 vote) and Staff recommend APPROVAL.**

104

105 **Appearance List**

106 CAROLYN G. GOODMAN, Mayor
107 STEVEN G. SEROKA, Councilman
108 CEDRIC CREAR, Councilman
109 MICHELE FIORE, Councilwoman
110 LUANN D. HOLMES, City Clerk
111 LOIS TARKANIAN, Councilwoman
112 BRAD JERBIC, City Attorney
113 BOB COFFIN, Councilman
114 SCOTT ADAMS, City Manager

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

115 STAVROS S. ANTHONY, Councilman
116 ROBERT SUMMERFIELD, Director of Planning
117 TOM PERRIGO, Executive Director, Community Development
118 STEPHANIE ALLEN, 1980 Festival Plaza, on behalf of the applicant
119 MARK HUTCHISON, Counsel for the applicant
120 ELIZABETH GHANEM HAM, in-house Counsel, on behalf of the applicant
121 MICHAEL BUCKLEY, on behalf of the homeowners
122 FRANK SCHRECK, 9824 Winter Palace Drive
123 YOHAN LOWIE, property owner
124 DOUG RANKIN, on behalf of the homeowners
125 BOB PECCOLE, Attorney, and homeowner at 9740 Verlaine Lane

126
127 (1 hour, 54 minutes) [3:25 – 5:19]
128

129 Typed by: Speechpad.com
130 Proofed by: Jacquie Miller
131

132 **MAYOR GOODMAN**
133 Okay. I will start reading.

134
135 **END RELATED DISCUSSION**
136 **RESUME RELATED DISCUSSION**
137

138 **COUNCILMAN SEROKA**
139 Mayor, I'd like to make a motion also. I have some items to discuss.

140
141 **MAYOR GOODMAN**
142 Okay. I think that-

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

143 **COUNCILMAN SEROKA**

144 I would like to-

145

146 **MAYOR GOODMAN**

147 -get through these and then you'll make yours. Or do you want one of those to be discussed?

148

149 **COUNCILMAN SEROKA**

150 No. No, we can do that if you allow me the floor. Thank you.

151

152 **MAYOR GOODMAN**

153 Okay. So please vote on Agenda Items 68 through 91, 98, 99, 110, and 111 for those abeyances,

154 assuming technology is, there we go. Please vote and please post. Councilman?

155

156 **COUNCILMAN SEROKA**

157 Mayor, I have a purely procedural motion. I move to strike-

158

159 **MAYOR GOODMAN**

160 Oh-

161

162 **COUNCILMAN SEROKA**

163 Item 74.

164

165 **MAYOR GOODMAN**

166 -wait, we're not done.

167

168 **COUNCILMAN SEROKA**

169 What?

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

170 **MAYOR GOODMAN**

171 Hold one sec, sorry. Councilwoman Fiore and Councilman Crear, please vote on those items.

172

173 **COUNCILMAN CREAR**

174 I apologize (inaudible). Can you restate whatever the motion on the table is?

175

176 **MAYOR GOODMAN**

177 And Councilwoman Fiore. Councilwoman Fiore?

178

179 **COUNCILWOMAN FIORE**

180 I did it.

181

182 **MAYOR GOODMAN**

183 Do it again. Push, push, push.

184

185 **COUNCILWOMAN FIORE**

186 There's no button. There's no button.

187

188 **LUANN D. HOLMES**

189 How would you like to vote?

190

191 **COUNCILWOMAN FIORE**

192 Yea. There's no, there's no vote

193

194 **COUNCILWOMAN TARKANIAN**

195 There's no vote brackets.

196

197 **MAYOR GOODMAN**

198 Okay. Here we go. Now we're posting it. It carries. Now, Councilman-

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

199 **COUNCILMAN SEROKA**

200 -Thank you Ma'am.

201

202 **MAYOR GOODMAN**

203 -Seroka, please.

204

205 **COUNCILMAN SEROKA**

206 I have purely a procedural motion. Based on procedure, I move to strike Agenda Items 74
207 through 83 on the grounds that I will go through here. It is an incomplete application. There is a
208 violation of our 12-month cooling off period, and it is a violation of the law as it stands today,
209 and I will go through those items to demonstrate that we have an incomplete application.
210 According to our Code, Code 90.10.040, modification of a master development plan and
211 development standards, such as Peccole Ranch Master Development Plan Phase 2, requires a
212 Major Modification because it is increasing the density of the development from which was -
213 previously approved. It also requires a Major Modification, cause it's a change in location of
214 density, and according to our Code, it says that a Major Modification shall be processed in
215 accordance with the procedures and standards applicable to zoning.
216 Further, we have an incomplete application that says due to Nevada Administrative Code
217 278.260 for review of a Tentative Map, which we have here today, it says, A developer shall
218 submit all of the following items of information for its review of a Tentative Map. If a system for
219 a disposal or sewage is to be used or considered, a report on the soil including the types of soil, a
220 table showing seasonal high water levels and the rate of percolation at depth of any proposed
221 system of absorption for soil is required. A smaller item is that a map of the 100-year floodplain
222 for the applicable area must be included. A larger item, and a very significant item in this case, is
223 that also is required a master plan showing the future development and intended use of all land
224 under the ownership or control of the developer in the vicinity of the proposed subdivision. In
225 other words, all 250-acre plan must be submitted with the Tentative Maps. And that is also in
226 accordance with the staff's preferred process as - discussed in their staff analysis, and this is all
227 right out of the Nevada Code. Further, it says that we have violated our, the 12-month cooling off

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

228 period for successive applications of a General Plan Amendment.

229 So, I wanted to go through the requirements for a General Plan Amendment to show that a

230 General Plan Amendment is required in this case, and that since it, has been submitted, the

231 manner in which it's submitted violates the - Code that we have in place for a 12-month cooling

232 off period, and it was, that period would end in June.

233 Under our State laws, we have a law that's called NRS 278.230, governing body must put

234 adopted master plan into effect, and it says except as otherwise provided, whenever a governing

235 body or a city or county has adopted a master plan thereof, for the county or any major section

236 thereof, the governing body shall, upon recommendation of the, of, and I'll skip through some of

237 the language, and if practical needs of putting into effect a master plan, it must be in

238 conformance. The governing body must make sure it's in conformance.

239 Going, and there is some concern about that being whether our State law applies. Well, I'm –

240 gonna describe to you a couple of Supreme Court cases that say that you must amend and require

241 your master plan to be adopted when you change other things.

242 It's, the first case is the (sic) Nova Horizon case, and it is documented in the City documents

243 here that says the City, the courts have held that the master plan is a standard that commands

244 deference and presumption of applicability. The Nevada Supreme Court has held that master

245 plans in Nevada must be accorded substantial compliance, while Nevada statutes require the

246 zoning authority, must adopt zoning regulations that are in agreement with the master plan.

247 Further, there is the second case that says essentially the same thing, in that the master plan of a

248 community is a standard that commands deference and presumption and applicability.

249 So we have established that both at the State that a master plan must be in conformance with the

250 decisions you make on the day. So a General, GPA would be required if we're going to change

251 these items.

252 Further, in our own Title Code, Title 19, Paragraph 19.00.040, it is the intent of the City Council

253 that all regulatory decisions made pursuant to this Title be consistent with the General Plan. For

254 the purpose of this, of this section, consistency with the General Plans means, and it says what it

255 means, both the land use and the density and also all policies, programs of the General Plan

256 include those that promote compatibility of the uses and orderly development.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

257 So we have a State law and City law that says your General Plan must be in conformance with
258 whatever you're doing. So if you change something, you have to change your General Plan. So it
259 is required that we change our General Plan.

260 Further, in 19.16.010, it's titled Compliance with the General Plan. It says, Except as otherwise
261 authorized in this Title, which means it would have to state below that a General Plan
262 Amendment is not required. Otherwise, it is required. So it says except as otherwise authorized,
263 approval of all Maps, which we have today, Site Development Plan Reviews, which we have
264 today, Waivers which we have today, and Deviations and Development Agreements shall be
265 consistent with the spirit and intent of the General Plan.

266 Further, it says Site Development Reviews will be in conformance with the General Plan. In
267 subsequent paragraphs, it says Waivers shall be, granting a Waiver will not be inconsistent with
268 the spirit of the General Plan; and Tentative Maps, it says no application for a Tentative Map is
269 eligible for approval unless it is determined that the proposed, proposal will be in conformance
270 with all applicable zoning regulations, including all applicable provisions of this Title. The
271 zoning classification of the site and all zoning master plan or site plan approvals for the site,
272 including all applicable conditions.

273 So, in order to make the zoning in conformance, you need a Major Modification, as described
274 earlier. But what I have just demonstrated is that a General Plan Amendment is required, and we
275 have a provision in our Code that says if you have successive applications of a similar category,
276 the same category, and it goes on to describe many things that apply here today, and there is a,
277 that have been previously denied, that is a lesser intensity and you come now with a greater
278 intensity, you have to wait a year. Now, let's explain that. I asked for clarification from the
279 attorneys on that issue, and they said they really didn't know the spirit and intent behind that rule,
280 so we'll just clarify that here, since this is a policy making body and that the staff is a policy
281 implementing body, that, in this case, what it's saying is if you had a General Plan Amendment
282 for say, let's say 10 units and it was denied, you can come back with a General Plan Amendment
283 saying, Yeah, we'll - lower that to one, that's less - intense use. And that makes sense. So you
284 could go to a lower intensity or less demand when you come forward. But let's say you were
285 previously denied for 10. It wouldn't make any sense to then come back for, let's exaggerate a

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

286 little bit, for 100. So if you got denied for 10, don't come forward with 100 because that's a
287 successive application, and the waiting period for that is a period of 12 months. The 12-month
288 delay, and that would not expire until June, so we should not have accepted this application
289 based of the General Plan Amendment because it's still within the window. And therefore,
290 without the General Plan Amendment and without the Major Mod, we can't do the Tentative
291 Maps, and the Tentative Maps have to be in conformance with the General Plan as the, our own
292 Code says.

293 Further, in the court case that Judge Crockett ruled, a very respected, highly regarded, very
294 thorough judge, he said that in, he - followed our own rules. He followed our staff
295 recommendations. And these are facts that the Peccole Ranch Master Plan must be modified to
296 change the land use designations from Golf Course Drainage to Multi-family, prior to approval
297 of the General Plan Amendment. That would be a Major Mod.

298 In order to develop, and these are written by our own staff, by the way. In order to redevelop the
299 property as anything other than Golf Course or Open Space, the applicant has proposed a Major
300 Modification of the master plan. So the applicant actually knows a Major Mod is required.

301 The judge further ruled the City's failure to require or - approve a Major Modification without
302 getting is legally fatal to the City's approval. So we knowingly would be operating outside the
303 law. And further, it says the City is not permitted to change the rules or follow something other
304 than the law in place. The staff made it clear the Major Mod was mandatory. Its record shows the
305 City Council chose to ignore that and move past it.

306 So we have this decision by a judge that says a Major Modification is required, amongst other
307 things, in order to move forward on the Peccole Ranch Master Plan Phase 2, of which the entire
308 250 acres is considered Parcel 5 of the Peccole Ranch Master Plan Phase 2. So it doesn't matter if
309 you're talking about one part of the golf course or another, it's all designated Drainage Golf
310 Course. So if you're going to change anything on the 250 acres, you need to have a Major
311 Modification first, a required General Plan Amendment, and then you can do your other steps.

312 So I have demonstrated we have an incomplete application, we're not in conformance with State
313 law, State code, City code, City law, and we have absent the Major Modification that both our
314 own Code requires, and at the current state of things, since we did not appeal the judge's decision

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

315 and we did not ask for a stay, what we have said is we are compelled to abide by the Court's
316 ruling. And the Court ruling says that we are required a Major Modification.
317 Therefore, my motion is to Strike Items 74 through 83. However, I will allow the Applicant the
318 opportunity to withdraw them at this time if they would like to do that. Otherwise, that is my
319 motion.

320

321 **MAYOR GOODMAN**

322 Okay, I'd like some clarification-

323

324 **COUNCILWOMAN FIORE**

325 Could I ask-

326

327 **MAYOR GOODMAN**

328 -If I may, I'm gonna ask for Brad Jerbic, first of all, and then I wanna hear if there was briefing
329 by our City Manager on - these issues. Did you brief the Council? Are they fully knowledgeable
330 that this motion was gonna come? But let's go to Brad Jerbic first, please.

331

332 **BRAD JERBIC**

333 Procedurally, will you please read 74 through 83 into the record?

334

335 **MAYOR GOODMAN**

336 Okay, 74, GPA-72220, on a request for a General Plan Amendment from PR-OS
337 (Parks/Recreation/Open Space) to ML (Medium Low Density Residential) on 132.92 acres on
338 the east side Hualapai Way, approximately 830 feet north of Charleston Boulevard.
339 Number 75, WVR-72004, on a request for a Waiver to allow 40-foot private streets with no
340 sidewalks where 47-foot private streets with 5-foot sidewalks on both sides are required within a
341 proposed gated residential development on a portion of 71.91 acres on the north side of Verlaine
342 Court, east of Regents Park Road, R-PD7 (Residential Planned Development - 7 Units per Acre)
343 and PD (Planned Development) zones.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

344 Number 76, SDR-72005, on a request for Site Development Plan Review for a proposed 75-lot
345 Single Family Residential development on a portion of 71.91 acres on the north side of Verlaine
346 Court, east of Regents Park Road, R-PD7 (Residential Planned Development - 7 Units per Acre)
347 and PD (Planned Development) zones.

348 Number 77, TMP-72006, on a request for a Tentative Map for a 75-lot Single Family Residential
349 subdivision on 22.19 acres on the north side of Verlaine Court, east of Regents Park Road, R-
350 PD7 (Residential Planned Development - 7 Units per Acre) zone.

351 Number 78, WVR-72007, on a request for a Waiver to allow 40-foot private streets with no
352 sidewalks where 47-foot private streets with 5-foot sidewalks on both sides are required on a
353 portion of 126.65 acres on the east side Hualapai Way, approximately 830 feet north of
354 Charleston Boulevard, R-PD7 (Residential Planned Development - 7 Units per Acre) and PD
355 (Planned Development) zones.

356 Number 79, SDR-72008, on a request for a Site Development Plan Review for a proposed 106-
357 lot Single Family Residential development on a portion of 126.65 acres on the east side Hualapai
358 Way, approximately 830 feet north of Charleston Boulevard, R-RPD7 (sic) (Residential Planned
359 Development - 7 Units per Acre) and PD (Planned Development) zones.

360 Number 80, abeyance on a residence for a, on a request for a Tentative Map for a 106-lot single-
361 family residential subdivision on 76.93 acres east side Hualapai, approximately 830 feet north of
362 Charleston Boulevard, R-PD7 (Residential Planned Development - 7 Units per Acre) zone.

363 Number 81, WVR-72010 on a request for a Waiver to allow 40-foot private streets with no
364 sidewalks where 70, 47-foot (sic) private streets with 5-foot sidewalks on both sides are required
365 within a proposed gated community development on a portion of 83.52 acres on the east side of
366 Palace Court, approximately 330 feet north of Charleston Boulevard, R-PD7 (Residential
367 Planned Development - 7 Units Per Acre) and PD (Planned Development) zones.

368 Number 82, SDR-72011, on a request for a Site Development Plan Review for a proposed 53-lot
369 Single Family Residential development on a portion of 83.52 acres on the east side of Palace
370 Court, approximately 330 feet north of Charleston Boulevard, R-PD7 (Residential Planned
371 Development - 7 Units per Acre) and PD (Planned Development) zones.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

372 And number 83, TMP-72012, on a request for a Tentative Map for a 53-lot Single Family
373 Residential subdivision on 33.8 acres on the east side of Palace Court, approximately (sic she
374 said 350), 330 feet north of Charleston Boulevard, R-PD7 (Residential Planned Development - 7
375 Units per Acre) and PD (Planned Development) zones.
376 The Applicant/Owner of these parcels is the 180 Land Company LLC, at (sic), 180 Land
377 Company LLC, et al.
378 On Item 74, the Planning Commission vote resulted in a tie, which is tantamount to a
379 recommendation of denial, and staff recommends approval. The Planning Commission and staff
380 recommend approval of Items 75 through 83. These are in Ward 2 with Councilman Seroka, are
381 Public Hearings which I declare open.
382 Is the Applicant present? And Mr. Summerfield, are you here, wherever you are?

383

384 **COUNCILMAN COFFIN**

385 Your Honor, Your Honor, before we-

386

387 **MAYOR GOODMAN**

388 -Yes, well, I wanna hear back-

389

390 **COUNCILMAN COFFIN**

391 -there is a motion-

392

393 **MAYOR GOODMAN**

394 -no, no, no, no-

395

396 **COUNCILMAN COFFIN**

397 -there's a motion.

398

399 **MAYOR GOODMAN**

400 Let's wait.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

401 **COUNCILWOMAN FIORE**

402 No.

403

404 **MAYOR GOODMAN**

405 No. No. We're-

406

407 **COUNCILMAN COFFIN**

408 But, Your Honor-

409

410 **MAYOR GOODMAN**

411 -we're hearing from our attorney, please, Councilman.

412

413 **COUNCILMAN COFFIN**

414 Oh, from our attorneys, right, because I see a lot of people approaching, and I wanted to make

415 sure we keep it here in the family.

416

417 **MAYOR GOODMAN**

418 They're fine. Please, please just let's hear from-

419

420 **BRAD JERBIC**

421 I'm gonna make a recommendation, because the Councilman has raised a, an issue, and based a

422 motion on a procedural issue. Staff hasn't read the report yet. There's been no testimony yet. I

423 would suggest, Your Honor, that you open up the hearing just for discussion on the procedural

424 issue. If the procedural issue results in the motion passing, then we don't get to the merits of it. If

425 the procedural issue fails, then you have the staff presentation, and we can do it. That's my

426 recommendation.

427

428 **MAYOR GOODMAN**

429 Okay. May I ask the question, which I was going to before you told me to read them, which was

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

430 correct. I didn't know and I wanted to ask our City Manager, has Council been briefed on these,
431 on these items?

432

433 **SCOTT ADAMS**

434 Scott Adams, City Manager. We did brief our Council last week on all three of these, well,
435 actually, there's 10 total items, three individual actions per each of the three parcels, plus the
436 overall GPA. We did a briefing last week, and then we had a Council briefing yesterday through
437 the agenda where this item came up as well. So we - really covered it over two weeks.

438

439 **COUNCILWOMAN FIORE**

440 Mayor?

441

442 **SCOTT ADAMS**

443 I - would say we're not aware of the action-

444

445 **COUNCILWOMAN FIORE**

446 Right.

447

448 **SCOTT ADAMS**

449 -or the proposed motion. So we're not really in a position to respond technically on the merits of
450 the motion, cause it, it's something that I was not aware of.

451

452 **COUNCILWOMAN FIORE**

453 Right. So Mayor understand, that what just occurred, we were not briefed on what just occurred.
454 We were briefed on what was coming before Council. But what just occurred, none of us had a
455 briefing on of what just occurred. And - I think, I think it's - quite shady, and I don't, I don't see
456 how we can even proceed with the motion that Councilmember from Ward 2 has made.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

457 **MAYOR GOODMAN**

458 Okay. Councilman Crear, I see your light's on.

459

460 **COUNCILMAN CREAR**

461 Thank you, Mayor, I just have a point of clarification. Since the Councilman has brought issues
462 forward to the Council, and how do we make a determination on if those issues are valid or are
463 they not valid? And do we need to make that clarification happen prior to us moving forward so
464 that we could make a determination or not on how we move forward? It seems as though, and
465 I'm not casting one side or the other, that I - don't feel comfortable moving forward since now
466 that I'm aware of some information that I was not aware of prior. And so how do I make a
467 determination on if what the Councilman is saying is, has basis? If it does have basis, then that
468 information seems to be very pertinent into us moving forward, whatever comes on the outcome.
469 Can you answer that for me, Mr. Jerbic?

470

471 **BRAD JERBIC**

472 I can. I think that this would be a really good time to hear from both sides as to the procedural
473 issues only, not opening up a hearing on the applications themselves, but there's been a motion
474 made to strike everything based on the procedural grounds articulated by the Councilman. I think
475 that Mr. Bice will have an opinion, and I know that Lieutenant Governor Hutchison will have an
476 opinion, and I know that Ms. Allen will have an opinion.-

477

478 **COUNCILMAN COFFIN**

479 Your Honor?

480

481 **BRAD JERBIC**

482 So what I would urge you to do, Your Honor, is ask them to limit their comments, at this point in
483 time, just to the procedural issues raised by the Councilman in this motion.

484

485 **MAYOR GOODMAN**

486 Okay.

Page 17 of 74

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**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

487 **COUNCILMAN CREAR**

488 Madam Mayor?

489

490 **COUNCILMAN COFFIN**

491 Your Honor?

492

493 **COUNCILMAN CREAR**

494 Madam?

495

496 **MAYOR GOODMAN**

497 Excuse me, please-

498

499 **COUNCILMAN CREAR**

500 -Okay.

501

502 **MAYOR GOODMAN**

503 - everybody, please.

504

505 **COUNCILMAN COFFIN**

506 Yeah.

507

508 **MAYOR GOODMAN**

509 I wanna hear from the Council first, their questions to you on this procedural item. So, first,
510 we're gonna go to Councilman Coffin, then we're gonna go to Mayor Pro Tem, then we're gonna
511 go to Councilman Anthony. These are times for you to address questions to our legal staff first.
512 So if you want to sit and rest for a few moments, you may. Please, Councilman Coffin.

513

514 **COUNCILMAN COFFIN**

515 Thank you, Your Honor. Okay, first of all, a motion-

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

516 **MAYOR GOODMAN**

517 This is to here. This is to Brad Jerbic.

518

519 **COUNCILMAN COFFIN**

520 -Right, thank you, and/or whoever can hear. The motion is made under the correct order of
521 business, motion accepted. Discussion on the motion is occurring. No advance notice has to be
522 given to anybody, for, no one in this body or any legislative body that I know of needs to give
523 notice of a procedural motion in advance or in essence, seek permission. That's not required. And
524 we've got a master of the gavel out there in the audience, the Lieutenant Governor. He - knows
525 this. You don't, never know when a motion's gonna come in.

526 So, it's hard to say we haven't been briefed, when in reality, what a briefing would do would be
527 to give an indication that this motion was coming. And so it's - his business. I mean, it is his, it's
528 his properly recognized motion. I - don't think that, frankly, I don't think we need to go even into
529 public discussion, because I - don't even know if you've made a ruling or you're just suggesting,
530 Brad, because procedural, we do not allow the public to tell us how to run our dais. Who is, if I
531 could have your attention, Brad, who is the Parliamentarian, the Clerk or Council?

532

533 **BRAD JERBIC**

534 It's me.

535

536 **COUNCILMAN COFFIN**

537 Okay.

538

539 **COUNCILWOMAN TARKANIAN**

540 It's you.

541 **COUNCILMAN COFFIN**

542 That's good, because I wasn't sure. I thought the City Clerk might be the Parliamentarian.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

543 **BRAD JERBIC**

544 We work together very closely.

545

546 **COUNCILMAN COFFIN**

547 Okay.

548

549 **BRAD JERBIC**

550 I don't think we're gonna work closely on this issue cause I don't think anybody wants to get near
551 it, but go ahead.

552

553 **COUNCILMAN COFFIN**

554 It's hard to hear you. But anyway, the idea is that you'd have to say, well, if you're the
555 Parliamentarian, would you agree that the motion is properly made under the order of business?

556

557 **BRAD JERBIC**

558 Yes. There, there's no obligation for any member of the Council to share their motion in advance
559 with any other member of the Council. So when it comes to, if - the question is staff did not brief
560 me, it's because staff isn't making the motion and staff didn't craft the motion. We didn't research
561 these issues. The Councilman is entitled on his own to do his own research, craft his own motion
562 and present it, and he's done that. So the motion is proper.

563

564 **COUNCILMAN COFFIN**

565 I think that's a good establishment there, Your Honor.

566

567 **MAYOR GOODMAN**

568 Thank you. Okay, MAYOR PRO TEM? And Mr. Jerbic, can you pull your mic closer to you as
569 you respond, please? Thank you. Go ahead.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

570 **COUNCILWOMAN TARKANIAN**

571 Mr. Jerbic, is there validity to the rules and regulations of the State and of our own City that
572 Mr. Seroka has brought forth? Are, if they exist, do they then affect what we're doing today or
573 would be doing today?

574

575 **BRAD JERBIC**

576 Let - me state a couple of things and you're going to have to make the judgment on this.

577

578 **COUNCILWOMAN TARKANIAN**

579 It sounds as if they are, but I don't know.

580

581 **BRAD JERBIC**

582 Let - me state a couple things that are just fact, but you're going to have to make a judgment call
583 on the policy end of it. It is a fact that we believe, as staff, a General Plan Amendment should be
584 required for this. The applicant submitted one under protest, so there is a General Plan
585 Amendment. The question the Councilman has raised is, do you believe it is so duplicitous with
586 the General Plan Amendment that was denied that he's in the one-year timeout box? Under our
587 Code, you can't bring back an application that's the same or similar, if you've been denied, for a
588 period of one year.

589 But the Councilman has argued, if I heard it correctly, and Councilman, stop me if you, if I get it
590 wrong, what he's argued is that this application, submitted under protest or not, is necessary but
591 it's untimely because he hasn't waited the full year yet because it's too similar to the GPA that
592 was denied last year. And without that, the rest of the project can't go forward. That, that's one
593 argument.

594 The next argument I heard, and I'm - getting a nod from Councilman Seroka, so he agrees with
595 the way I - summarized that. You're going to have to decide if you think staff did not think it was
596 duplicitous. But you can overrule staff and you can say, I think it was. You can say, I think this
597 GPA was filed too soon, he should have waited another month.

598 Having said that, the next issue is whether or not a Major Modification is required. There is not a

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

599 Major Modification that goes with this application. Staff did not believe a Major Modification
600 was necessary. There was a lawsuit in front of Judge Crockett, and Judge Crockett ruled on an
601 application that was before this Council last year for 435 condominiums on the northeast
602 quadrant of what we call Queensridge or Badlands Country Club. The applicant came in with a
603 request for 720 units. He needed a, we believed he needed a zone change, he needed a General
604 Plan Amendment. He filed for both.

605 The Council granted a General Plan Amendment and gave him medium density under the
606 General Plan. He filed for a zone change. He got R-3 as a zone change, and then he got his site
607 development plan approved for 435 units. There was a challenge to that, to that action, by the
608 City Council, that went to Judge Crockett. The argument that was made and, again, anybody out
609 there can correct me, I'll try and get this as just straight down the line as I can - tell it. The
610 argument, I believe, was that there was a General Plan, a Master Plan for Queensridge, called
611 Peccole Ranch Phase 2, and it didn't have units in it that could be built on the golf course. It had
612 (sic) a number of single-family units that could be built, a number of multi-family units, but
613 when it got to golf course, open space or drainage, it had a dash. There were no units there.

614 So I believe the argument was before the Council approved the 435, they should have required a
615 Major Modification of that plan, because it didn't have a unit count for the open space, and that
616 was where the 435 was going to be built was on the open space. Judge Crockett agreed with that
617 argument, and he issued a written opinion. And everybody's got it, we've talked about.

618 The written opinion is on appeal. The Council decided not to join in that appeal, but the
619 applicant, 180 Acre LLC at like, and the like, appealed that to the Nevada Supreme Court, where
620 it's pending. The Council was asked to make a policy call. To end the argument completely, you
621 could make a decision to change your Code or just make a policy call as to whether or not you
622 wanted a Major Modification to accompany these applications. The Council, on a 4-2 vote said,
623 No, we don't, and it was before Judge Crockett's decision.

624 So a 4-2 vote, no Major Modification, Judge Crockett says, Yes, you need a Major Modification.
625 Then a reconsideration of the 4-2 vote occurred, and there were not enough votes to reconsider it.
626 So that's the only statement you've made on this so far, a 4-2 vote before Judge Crockett,
627 Judge Crockett, and then you didn't take back your 4-2 vote because there weren't enough votes

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

628 for it. So-

629 I'm just, I'm just going through, that, that's what I've heard so far. So without going further into

630 it, those are two policy calls that you can make right now, and they can be directly addressed by

631 the applicant and anybody else as to whether or not, just break down into pieces. Do you think

632 the GPA is duplicitous with the previous one that was denied? And if you think that's true, then

633 there's a timeout period for the GPA, and without the GPA, the rest of the applications really

634 couldn't be heard. They - need the GPA to go with it, that's what staff believes. So that's number

635 one.

636 Number two, if after you know about Judge Crockett's decision and everything I've just said, you

637 think there should be a Major Modification, say that, and if you think there should be a Major

638 Modification, then that also would be something that would, is missing from this current

639 application that would cause it to be incomplete.

640 If you decide, on the other hand, the GPA is not duplicitous and a General Plan, and a Major

641 Modification is not required, then you go forward with the other procedural arguments one by

642 one. If they are exhausted, then you hear the application. If you hit a stumbling block at any one

643 that you believe is the policy of this Council, you have every right to interpret your own law and

644 - enforce it your own way. But of you believe procedurally at any point you've reached a dead

645 end, then the applications could be, you would vote on the motion to strike. That's my

646 recommendation.

647

648 **MAYOR GOODMAN**

649 If I might add, Mr. Jerbic, one last thing. If in fact, the applicant has made appeal to the Supreme

650 Court of the State of Nevada, is that a fact?

651

652 **BRAD JERBIC**

653 In my opinion, no.

654

655 **MAYOR GOODMAN**

656 They have not?

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

657 **BRAD JERBIC**

658 These are separate applications that have nothing to do with that particular appeal.

659

660 **MAYOR GOODMAN**

661 Then it is not-

662

663 **BRAD JERBIC**

664 I - think ultimately - here's - how it works. When a judge rules, it's not insignificant, but the
665 ultimate law of the land is made by the Nevada Supreme Court. The Nevada Supreme Court will
666 be the ultimate determiner as to whether or not a Major Modification is necessary. And if they
667 agree with Judge Crockett, it will be my advice, if that happens, that Major Modification is
668 required for everything that comes before this Council. If they disagree with Judge Crockett, then
669 we're back to where we were before. You don't require a Major Modification, but you do require
670 a GPA.

671

672 **COUNCILMAN SEROKA**

673 Mayor, if, Mayor if - I may on that point-

674

675 **MAYOR GOODMAN**

676 Yes.

677

678 **COUNCILMAN SEROKA**

679 -It's my understanding that Nevada Civil Practice Manual addresses this a bit as well, that when a
680 judge makes a ruling, you have an opportunity to appeal it, you have an opportunity to stay it. If
681 you don't do that, that's the law of the land at the time. And right now, this is the law of the land
682 that we have right now guiding us in our decision for this process. It doesn't mean it'll be the law
683 of the land later. It could change, as you said, through a Supreme Court change. But at the time
684 that we are hearing this, this is the law of the land, and that is the decision we have made to abide
685 by it.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

686 **COUNCILWOMAN FIORE**

687 So Mayor-

688

689 **MAYOR GOODMAN**

690 Well, let me, let's hear from Councilman Anthony.

691

692 **COUNCILMAN ANTHONY**

693 Thank you, Mayor. So - Brad, explain the - motion is to strike. So explain what that means
694 exactly to strike.

695

696 **BRAD JERBIC**

697 Quite often before the Planning session begins, you make motions to strike things that aren't
698 ready, that you're not ready to hear for, or you make motions to hold things in abeyance.

699

700 **COUNCILWOMAN FIORE**

701 Can he talk into the mic? I can't hear him.

702

703 **MAYOR GOODMAN**

704 Pull your mic closer, can't hear what you're saying down here.

705

706 **BRAD JERBIC**

707 I'm sorry. Part - of it is just my allergies, so forgive me. My voice is just-

708

709 **MAYOR GOODMAN**

710 Okay, but turn it more towards your mouth, if you would.

711

712 **BRAD JERBIC**

713 Okay.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

714 **MAYOR GOODMAN**

715 Good.

716

717 **BRAD JERBIC**

718 Quite often you do procedural things all the time. So forget about Badlands for a moment. You
719 take motions to strike at the beginning of every planning session. You do motions to abey at the
720 beginning of every planning session. Those motions are because an applicant has requested it or
721 because something isn't right or somebody changed their mind and doesn't want a project. That
722 happens all the time. That is almost always with the applicant's consent, all, more than often than
723 not at their request. This one's different. There's a procedural motion, which is properly made,
724 but I'm don't have a doubt that the applicant is not good with it. And so I think, in this particular
725 case, the motion to strike, if you believe there is a procedural defect, Councilman, after hearing
726 the testimony, if you believe there's a missing piece of this application or you believe the GPA
727 should not have been accepted because it's duplicitous with the one that was denied last year and
728 he hasn't waited a year yet to file the new one-

729

730 **COUNCILMAN ANTHONY**

731 Right, I understand that, but-

732

733 **BRAD JERBIC**

734 If you believe either one of those, then you vote on the motion.

735

736 **COUNCILMAN ANTHONY**

737 What - happens to the agenda items if - a strike motion passes?

738

739 **BRAD JERBIC**

740 Applicant will have to start over.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

741 **COUNCILMAN ANTHONY**

742 What does that mean start over?

743

744 **BRAD JERBIC**

745 That means he'll have to refile.

746

747 **COUNCILMAN ANTHONY**

748 The whole project would start all over again.

749

750 **BRAD JERBIC**

751 That's right.

752

753 **COUNCILMAN ANTHONY**

754 Okay. So-

755

756 **MAYOR GOODMAN**

757 And with a time limit, if I might question on top of that?

758

759 **BRAD JERBIC**

760 On the strike? Well strike is, since it's not on the merits, there's no one-year time limit that goes
761 with it, but I can assure you, without even speaking to the applicant or to their counsel, they'll be
762 in court tomorrow.

763

764 **COUNCILMAN SEROKA**

765 Mayor, if I may, I did let, offer-

766

767 **MAYOR GOODMAN**

768 -Well hold on if you would, let's hear from

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

769 **COUNCILMAN SEROKA**

770 -offer to withdraw without prejudice.

771

772 **MAYOR GOODMAN**

773 Wait, wait, wait, wait, let -

774

775 **COUNCILMAN ANTHONY**

776 -I just wanna ask - my questions.

777

778 **MAYOR GOODMAN**

779 -Let Councilman Anthony finish his questions, please.

780

781 **COUNCILMAN ANTHONY**

782 Thank you. Okay. So a motion to strike, if it passes, means the whole thing starts from square

783 one, is that correct?

784

785 **BRAD JERBIC**

786 Correct, they have to resubmit.

787

788 **COUNCILMAN ANTHONY**

789 Okay. So-

790

791 **MAYOR GOODMAN**

792 -And could you ask, wait one second, Councilman, and there is no, you have said there is no time

793 limit. If the motion to strike is agreed to, they can come back and file-

794

795 **COUNCILMAN ANTHONY**

796 Next week.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

797 **MAYOR GOODMAN**

798 -tomorrow.

799

800 **BRAD JERBIC**

801 Tomorrow. They could, they could do both. They could go to court and file tomorrow.

802

803 **MAYOR GOODMAN**

804 But they have to do it according to the new parameters. Okay.

805

806 **BRAD JERBIC**

807 Correct.

808

809 **COUNCILMAN ANTHONY**

810 My - next kind of question or comment is 95 percent of what Councilman Seroka said was, I
811 heard it for the first time. So I - don't know what it means. I don't understand it. I, there's no way
812 I can vote on the 95 percent because I need time to digest all that and I'm not gonna do it up here.
813 The one thing that - we have been briefed on though, which Councilman Seroka brought up, is
814 this, and you brought up, is the Major Modification that was required by this judge. So, in my, in
815 my 30 years in law enforcement world, if a judge ruled a certain way, then you followed the
816 judge's ruling. I mean, that's just the way it is. If - the police conduct a search and the judge rules
817 it's an unconstitutional search, well, it's an unconstitutional search until somebody says different,
818 and you have to follow the judge's ruling. I mean, that's - normally how you do it. Okay. There,
819 you can have a stay, you can, there's appeals and all that stuff, but in the general sense, the judge
820 rules it that way, you gotta kind of, if we, I mean, either that or we just ignore judges' rulings and
821 there's chaos. So there may be some ways to do that, and one of them is there is an appeal to the
822 Nevada Supreme Court on whether the judge's ruling was correct or not. So my question I guess,
823 for Mr. Perrigo or from Brad, is if - I or we or whoever decides that a Major Modification is
824 needed, is required, then what happens to the applications before us today? How would you,
825 what would be the process for going through that today?

Page 29 of 74

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**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

826 **MAYOR GOODMAN**

827 They would have to be refiled all over again.

828

829 **BRAD JERBIC**

830 Right. Well, there's a number of ways. First of all, there's a motion on the floor, and the motion is

831 to strike. If that motion passes, then what would happen when the applicant, and if you decide-

832

833 **COUNCILMAN ANTHONY**

834 -No, I'm just, I'm just talking strictly about the Major Modification.

835

836 **BRAD JERBIC**

837 Right.

838

839 **COUNCILMAN ANTHONY**

840 It -, just deal with that particular item. If a Major Modification is required, if I believe that-

841

842 **BRAD JERBIC**

843 -Right.

844

845 **COUNCILMAN ANTHONY**

846 -then that will help me decide how I'm gonna vote, but what happens to the stuff that's before us

847 today, if that is a requirement today?

848

849 **BRAD JERBIC**

850 I got it. I understand the question. The, if you require a Major Modification, you – could, I'm

851 sorry. If you require a Major Modification, I don't know why, normally I'm so loud, it's just very

852 quiet today, so I apologize. If you require a Major Modification, you can do it one of two ways.

853 One is you don't hear anything until the applicant submits one. It goes through the process, and I

854 think it has a Title 19 provision it has to go the Planning Commission, but that's something that

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

855 you can waive if you want to accelerate it. But he - would have to file a Major Modification, and
856 then all pieces of this would come to the Council together. So instead of 11 or 10 pieces you
857 have now, you would have an 11th that would be the Major Modification. That's what would
858 happen. The other way to do it, and it's - possible, but I don't recommend it, and that is vote on
859 the 10 that you have now, contingent upon a Major Modification coming in within 60 days or
860 whatever. You could do that too. But-

861

862 **COUNCILMAN ANTHONY**

863 -Well, I - don't, I mean, I don't know if that's a way I would go. I mean, if a Major Modification
864 is required and I believe that, then we should start, that, that's kind of the, a first step, right?

865

866 **BRAD JERBIC**

867 I - make no policy recommendation here, I just give you the legal options.

868

869 **COUNCILMAN ANTHONY**

870 Right, but - on an application like this, if a Major Modification is required, that would have to be
871 submitted before these agenda items, is that correct, Tom? Is that how-

872

873 **BRAD JERBIC**

874 If - you had, if you had decided months ago that a Major Modification required, these
875 applications wouldn't be on the agenda unless there was a Major Modification with them.

876

877 **COUNCILMAN ANTHONY**

878 Correct. Okay. All right. So, all right, so if I believed that, then I would support the motion to
879 strike. I guess another way to look at it is if it is being appealed to the Supreme Court, I guess
880 another way to deal with this would be since the Major Modification is the first step and a key
881 element, is to abey all this stuff until the Nevada Supreme Court decides, cause you said rightly
882 they have final say. So any idea when the Nevada Supreme Court would hear the (sic) and make
883 a final ruling on the Major Modification? Any idea?

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

884 **BRAD JERBIC**

885 I'm looking at a very amused Lieutenant Governor right now who knows how this works. There's
886 no predicting-

887

888 **COUNCILMAN ANTHONY**

889 There isn't.

890

891 **BRAD JERBIC**

892 -when the Nevada Supreme Court's gonna hear this or - rule on it. Even if they set a briefing
893 schedule and all the briefs were turned in by a certain date, let's make up a date, October 1st,
894 they gotta have a hearing and they could sit on it for months or years. You never know.

895

896 **MAYOR GOODMAN**

897 If I may interject here-

898

899 **COUNCILMAN ANTHONY**

900 -Okay, okay, I'm good.

901

902 **MAYOR GOODMAN**

903 -I mean, I - thank you very much, Councilman. It seems to me we did vote 4-2, I understand that,
904 against Major Modification. A single judge made a decision to overrule that vote and change it.
905 We know it is gonna end up in the courts. I don't know why we would be messing with this. I've
906 been saying this same thing for over six, eight months. I don't understand why we are to vote on
907 this. I understand the legal ramification when a judge makes a decision, that decision holds.
908 That's the issue. But I have said again and again this is gonna end up there. Why are we ruling on
909 anything? Let the, this is in the courts, let them decide en banc and tell us what we should, we
910 already voted 4-2 against Major Modification. So why would we go against what we believed in
911 originally? And you told me you can't abey unless you don't have information, and I would add
912 that this information to strike is this total thing, and with all the information, and due respect to

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

913 Councilman Seroka, who obviously has done a great deal of homework on it, I - don't have the
914 information. So in that sense, from my vantage point, the answer is either no or abstain. And you
915 said I can't abstain.

916 I want the courts to tell us. They rule. One judge doesn't make it go. And so where do we go,
917 where would I go with my vote? Am I allowed to abstain cause I don't have the information?
918

919 **COUNCILMAN SEROKA**

920 Can withdraw.
921

922 **BRAD JERBIC**

923 We - we've unfortunately set this precedent before. Several of you have come to me on very rare
924 occasion and said, I'm not informed enough to vote. And then you go for an abeyance, not a
925 strike. You go for abeyance to get up to speed. That's happened once or twice, that happened
926 with Councilwoman Tarkanian when we had the argument regarding the Major Modification.
927 She said pretty plainly on the record, I don't have enough information about this to vote right
928 now, and so she abstained. The, when you do that, you don't get to un-abstain later on, on - a, on
929 the procedural motion. So when the, when the motion to require a Major, not require a Major
930 Modification passed on a 4-2 vote, later on one of the members in the majority wanted to bring it
931 back to rescind that vote. Councilwoman was not allowed to un-abstain-
932

933 **MAYOR GOODMAN**

934 Correct.
935

936 **BRAD JERBIC**

937 -for that because she didn't vote on the first vote.
938

939 **MAYOR GOODMAN**

940 Correct.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

941 **BRAD JERBIC**

942 But if it had been reversed, she would have been able to join back in on the conversation. So if
943 you abstain now for more information, you could, when you get up to speed, vote. But I will
944 state on the record, the question that you asked that's a fundamental question, Why do you have
945 to vote right now?

946

947 **MAYOR GOODMAN**

948 Right.

949

950 **BRAD JERBIC**

951 The Applicant is entitled, because he owns property, to seek permission from his government to
952 use that property in the way he wants to seek it. It doesn't mean you have to give it. It doesn't
953 mean he's right. But he has every right to ask. He has every right to due process. And at some
954 point in time, to link your obligation as an elected body to give him that due process to a whole
955 other system of justice that is out of our control, doesn't give him due process, in my opinion, on
956 this matter. Does he get due process if you strike based on a procedural thing? Sure, because
957 you've had a discussion on it, and then you can make your policy call there. But having a right,
958 he has a right to have you vote and not wait for the Nevada Supreme Court a year or two from
959 now.

960

961 **MAYOR GOODMAN**

962 But-

963

964 **BRAD JERBIC**

965 He also, the flip side of this is this, and I think the applicant knows this. If the applicant believes
966 he doesn't wanna submit a Major Modification, we're not requiring him to submit a Major
967 Modification, and later the Supreme Court rules not only is a Major Modification required on the
968 435, but on everything out at - Queensridge, well, that's the risk he's taking, and he understands
969 that. And so, and it would be reversed.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

970 **MAYOR GOODMAN**

971 And conversely, if I might, if the Supreme Court says he does not-

972

973 **BRAD JERBIC**

974 Right.

975

976 **MAYOR GOODMAN**

977 -votes over and reverses the District Court decision, then he just proceeds on, correct?

978

979 **BRAD JERBIC**

980 If - the Supreme Court reverses the District Court, the 435 is his again. It gets restored. If the

981 Supreme Court says Major Modification required for everything at Queensridge, any victory he

982 gets without a Major Modification goes away.

983

984 **MAYOR GOODMAN**

985 So why aren't we waiting for the Supreme Court? I don't get it.

986

987 **BRAD JERBIC**

988 The applicant wants you to hear it now knowing that.

989

990 **MAYOR GOODMAN**

991 All right.

992

993 **BRAD JERBIC**

994 They know that.

995

996 **MAYOR GOODMAN**

997 So you did instruct us as well, if I may. You said this is procedural only.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

998 **BRAD JERBIC**

999 I think the discussion right now should be on the procedure only. No point in getting into the
1000 merits of it since we have two arguments that the Councilman has made, well more than two, but
1001 two that I identified, the GPA argument and the other. I would just break these down very
1002 simply. Let's talk about the GPA, do you think it's duplicitous? If it is, you vote and you decide
1003 whether or not, and if you decide it is, then there's - another month left on the timeout window
1004 from the denial of the GPA last year.

1005

1006 **MAYOR GOODMAN**

1007 Okay. You're not through. Don't go away yet, please. There is a motion on the floor, I believe
1008 that Councilman Seroka, that was a motion, correct?

1009

1010 **COUNCILMAN SEROKA**

1011 Yes, Mayor.

1012

1013 **MAYOR GOODMAN**

1014 Okay. It was a, do we go ahead and vote the motion and then go into procedural comments from
1015 both sides, or do we go ahead and vote and see how it flies and then go into the procedural
1016 discussion?

1017

1018 **COUNCILWOMAN FIORE**

1019 I just have a question, Mayor.

1020

1021 **MAYOR GOODMAN**

1022 One more question.

1023

1024 **COUNCILWOMAN FIORE**

1025 Yeah, so, okay, so it's to our staff, it's to Peter and Robert. Do you guys believe the GPA was the
1026 same or similar? The GPA that - we want to discuss, do you believe this GPA on these items that

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1027 Councilman Seroka wants to strike, do you believe the GPA was the same or similar?

1028

1029 **ROBERT SUMMERFIELD**

1030 Madam Mayor, through you, the - GPA that was submitted was at the request of staff, and
1031 therefore, we have not treated it as a successive application. Therefore, we have not run the test
1032 of is it a more restrictive or less restrictive request. So, again, the GPA was requested by staff, it
1033 was submitted under protest by the applicant, and therefore, again, it was a request of staff to
1034 submit the application. And so the - language about a less restrictive application was - not a part
1035 of the test that we did. We requested the application.

1036

1037 **COUNCILWOMAN FIORE**

1038 Okay.

1039

1040 **COUNCILMAN CREAR**

1041 What does that mean?

1042

1043 **COUNCILWOMAN FIORE**

1044 Okay. Through your request, though, are - you saying that you're, it's different, or is it similar?

1045

1046 **ROBERT SUMMERFIELD**

1047 It's a request to change from PR-OS to a residential zoning district in that, or residential
1048 designation. In that regard, it's similar. They're different requests. It's a different area that's being
1049 requested for than the original GPA, and it is a different designation that's being requested.

1050

1051 **COUNCILWOMAN FIORE**

1052 So then if it's different, then we should hear it.

1053

1054 **ROBERT SUMMERFIELD**

1055 That I would refer to your legal counsel.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1056 **COUNCILWOMAN FIORE**

1057 That's what I'm saying. If it's different, then all the legal mumbo jumbo, cause this is more of a
1058 legal argument that Councilman Seroka had just talked about, goes out the door. If it's different,
1059 then we can hear these items.

1060 And this is very shocking, I have to tell you. First time we're hearing it, we're supposed to digest
1061 this information in a minute up here. I - just don't, I, this is the first for me and - I cannot support
1062 this.

1063

1064 **MAYOR GOODMAN**

1065 Okay. Councilman Crear?

1066

1067 **COUNCILMAN CREAR**

1068 Thank you, Madam Mayor. I - concur with Regent, excuse, wow, Regent Anthony, my former
1069 colleague on the Board of Regents, Councilman Anthony that we did just hear this, and I think
1070 it's a lot of information to take in, in a very short period of time. But I am very, very, very
1071 perplexed at how we cannot get definitive answers on some of the questions that we're asking. I
1072 don't understand how legal counsel cannot tell us if there are merits that are, that are based upon
1073 the - comments that Councilman Seroka has made.

1074 Our - Planning Director is sort of hedging on if we have, if there's any continuity between the
1075 previous application and the application now. Those are very pertinent answers that we need in
1076 order to make a - determination on if we're gonna vote on the motion on the floor. And because,
1077 I'm not saying that Councilman Seroka is not correct, I think the way he presented it seems very,
1078 very, very accurate. And I'm not here to say if - it is or isn't. But we do have highly intelligent
1079 people, who have a long history in the law, that seem to also be hedging on this issue.

1080 Is what he says, he - quoted statute, he quoted ordinances that were there. It seems pretty - legit
1081 to me. But then you're saying that we can make the determination, which we don't have all the
1082 information on. So if we don't have all the information, then I don't even know how we can vote
1083 on the item to strike it, one way or the other. Right? And then, even if moving forward, how can
1084 we vote on this issue if we don't have the proper information, which Councilman Seroka has

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1085 raised questions to? And I do believe that if the law, Crockett, Judge Crockett has made a
1086 determination, like it or not, a judge has made a determination, and for us to just discard it as if it
1087 does not exist is basically impossible for us to do. We have to take it for what it's worth.
1088 Now, will that change? Possibly. But as of now, it seems as though that is what a judge decided
1089 on. The judge tells me I got, I go to jail, I don't have the luxury to say, well, that's just your
1090 opinion, Judge. I'm going to the joint. And it's not until I appeal it or whatever I do to try to get
1091 out, then I have to do it. But I have to go serve time. And it seems as though this is the same
1092 situation. I just don't understand how we can just discard it and to be sort of laissez-faire about it.
1093 That's all. Thank you.

1094

1095 **MAYOR GOODMAN**

1096 Okay. Back to you, Mr. Jerbic. What are we doing on the motion? Do we vote it, or do we hear
1097 on procedure?

1098

1099 **BRAD JERBIC**

1100 Let me, let me break it down. Councilman Crear asked a good question. So let me just play it
1101 straight down the line as your lawyer.

1102

1103 **MAYOR GOODMAN**

1104 And mic, microphone right to your mouth.

1105

1106 **BRAD JERBIC**

1107 Okay. Let me play it straight down the line as your lawyer. There is a disagreement as to what
1108 the law means. I will tell you that what I think it means, and there's, there are people that
1109 disagree, and the Councilman disagrees. And there are areas where we totally agree. So let me
1110 tell you where we, what I think the law says and why I think the GPA has been requested and not
1111 required.

1112 I don't have a doubt that the law says if you come in with a new request for zoning that's
1113 inconsistent with a General Plan, you have to mandatorily require a GPA. Correct, staff? They're

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1114 nodding yes. The law does not require a General Plan Amendment when the zoning is already in
1115 place and you're not requesting a change in the zoning.

1116

1117 **MAYOR GOODMAN**

1118 Correct.

1119

1120 **BRAD JERBIC**

1121 In this case, this is where we go down the rabbit hole a little bit. But this is legally the facts. The
1122 applicant believes R-PD means, R-PD7 means one thing, the Councilman believes it means
1123 another thing. The people in the litigation believe it means another thing. The only thing we have
1124 ever said is that it means zero to 7.49 units per acre, and he's got a right to ask for things on it.

1125 That could be zero. That could be 7.49 or something in between. But because the zoning is in
1126 place, whatever it means, and the zoning occurred before the PR-OS applied to the property,

1127 there's not a provision or a code that makes it mandatory he file for a GPA. But staff has

1128 requested it because we always want our General Plan to be synchronized with the zoning.

1129 Now, that may sound like a bunch of mumbo jumbo, but I think that's accurate. Staff, is that your
1130 position?

1131

1132 **ROBERT SUMMERFIELD**

1133 Madam Mayor, through you, yes, that is staff's position with regard to the General Plan

1134 Amendment, right.

1135

1136 **BRAD JERBIC**

1137 So there is, there's a disagreement with staff over that. That's up to you to decide. You're always

1138 allowed to disagree with your staff. You do all the time. It doesn't matter if it's Badlands. How

1139 many people come in here for a Variance? Staff recommends denial, you give approval. So this

1140 is nothing personal. This is a policy call where you can inject your personal belief as to what our
1141 policy should be in spite of what we tell you the written letter of the law is.

1142 If you decide that this General Plan Amendment is required, and you're entitled to say that, and

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1143 you can say it because you believe the law reads differently than I read it or you can say it's
1144 required just cause it's good policy to require it.

1145

1146 **COUNCILMAN SEROKA**

1147 Could I say something on regard to that? And - you'll agree in our meeting last Tuesday, what we
1148 did agree on was that this was R-PD7 with, and you refer to the plan when you have an R,
1149 Residential Planned Development District is what that word is per our Code, is that in that
1150 particular case of the Parcel 5, the Badlands drainage golf course area, was that there are zero
1151 entitlements currently. So way it sounds currently is there are zero, so you have to change that if
1152 you want to do any development on that golf course as it's designated. Further, I have the chart
1153 here that says master plan land use designations, and when it's PR-OS, you have no entitlements
1154 as well. So you do have to change, you don't have the zoning as it stands. You can get it, but you
1155 don't have it as it stands. There's zero.

1156

1157 **BRAD JERBIC**

1158 I'll address that too. I am not a planner. I don't have access to the Planning computers. But the
1159 applicant came to the Planning Department years ago and said, What is the zoning for this
1160 property that we call the Badlands Country Club? And they gave him a letter saying it's R-PD7. I
1161 have seen no evidence that they are wrong in what they gave him. And - staff, have you looked
1162 at that again to see if the letter that you gave is incorrect?

1163

1164 **ROBERT SUMMERFIELD**

1165 Madam Mayor, through you, again, in all of our review of the zoning atlas, the zoning for the
1166 subject sites that are on the agenda today is R-PD7.

1167

1168 **MAYOR GOODMAN**

1169 Thank you.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1170 **BRAD JERBIC**

1171 As a lawyer, I'm limited to the facts my client gives me. I can't make up the facts, I can't change
1172 the facts. The fact that they've given me, from then until now, says it's R-PD7, which is zero to
1173 7.49. What the Councilman just said is correct. It was treated as zero.

1174 The - General Plan, which was changed after the zoning was in place, said zero. PR-OS is zero.
1175 So staff - believes that you should, for good policy reasons, require a General Plan Amendment,
1176 and you should synchronize the General Plan with the zoning if that's what you want. So that's
1177 why it's on the agenda. Now, if – you, if you want to know the next part of it, is it redundant or
1178 overly, it overlaps too much with the previous application; staff doesn't believe it does. You can
1179 disagree with staff. You could ask them, What did the previous application have in it, and then
1180 what does the current application have in it? And then look for yourself like it's a Venn diagram.
1181 Are they, are they too much overlap there? And if you think there is, disagree with staff.

1182

1183 **COUNCILMAN SEROKA**

1184 What I heard staff say in that case is they believe, since it was requested and not required, the
1185 General Plan Amendment, that this didn't apply. However, I believe we've shown that the
1186 General Plan Amendment is required to move forward per Nevada State law and our City law.
1187 So that's where the City planners seem to disagree.

1188

1189 **TOM PERRIGO**

1190 Your - Honor, if I might, Tom Perrigo-

1191

1192 **MAYOR GOODMAN**

1193 Okay.

1194

1195 **TOM PERRIGO**

1196 -for the record. Yeah. So let - me try to see if I can hopefully clarify just a little bit. In, on June
1197 21st, 2017, Council denied an application for a General Plan Amendment for property that, for
1198 an area that covered the exact same area you're considering today, so the GPA areas are

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1199 consistent. That application was to go from PR-OS to L, Low Density Residential. That was
1200 denied.

1201 So the question of whether or not they're similar areas, within a year, it's clear that they are. The
1202 question, and I'll let Mr. Summerfield correct me if I'm not saying this accurately, the question is
1203 whether or not that GPA would be a required application with the Waiver, the Site Plan, and the
1204 Tentative Map. Staff's opinion is that, per statute and our Code, a GPA is not required with a Site
1205 Plan. It is clear in the Code that the desire is for the zoning to be consistent and the Site Plan and
1206 Tentative Map and the zoning to be consistent with the General Plan, but, in this case, is not
1207 required. Since it's not required, the applicant did not submit it. Staff requested it be submitted,
1208 but because it's not required, as Mr. Summerfield has said, they didn't apply the test as to
1209 whether or not it was a similar GPA for similar property within a year. It clearly is. The only
1210 question, I think, is whether or not you feel it should be required rather than requested.

1211

1212 **COUNCILMAN SEROKA**

1213 If I could mention, I will quote right out of our Code, These - items shall be consistent with the
1214 spirit and intent of the General Plan, 19.16.10. And before that, it says the City Council will, it is
1215 the intent of City Council that all decisions made pursuant to this Title be consistent with the
1216 General Plan. So the General Plan has to be consistent with what you're asking, it's not an option,
1217 it's not a request, it's a requirement. And that is our own City Code, Title 19, our own law. And
1218 that's not even specifying further the State law that says the (sic), essentially the same thing. So it
1219 appears that a General Plan is required-

1220

1221 **MAYOR GOODMAN**

1222 Can you read that again, if you would, because it doesn't say, I think you read it said is the intent,
1223 not it is required. So could you read that a little slower for me please?

1224

1225 **COUNCILMAN SEROKA**

1226 The intent of the City Council-

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1227 **MAYOR GOODMAN**

1228 Yes.

1229

1230 **COUNCILMAN SEROKA**

1231 -so what the City, in this law it says what we're trying to do here is that all decisions this body
1232 make be consistent with the General Plan. So it's our intent to be consistent. And then after that,
1233 it says it shall be, not could be, may be, would be, we'd like it to be; it says it shall be consistent
1234 with the spirit and intent of the General Plan. And the items that we're considering here are listed
1235 by Title, unless specified otherwise, which means it would have to say it doesn't apply here. So
1236 even if it doesn't say it further down in the document, which it does anyway, it says it shall be
1237 consistent with the General Plan. So if it's not consistent, you must amend the General Plan. You
1238 must have a GPA. It's not a request, it's a requirement to adjust the General Plan.
1239 Same with our State law. So we - have multiple cases and Supreme Court cases that say that. So
1240 it is a requirement that we have a General Plan Amendment. It is the case, as we've stated, with
1241 our City Manager for Planning, Deputy City Manager for Planning saying it's the same parcel
1242 and it is a greater use, more intense use from a previously denied application. I think we covered
1243 all the tests.

1244

1245 **MAYOR GOODMAN**

1246 Okay, back to you, Mr. Jerbic. At this point, there's a motion on the floor. Do we vote for the
1247 (sic) or vote for or against the motion and then go to the procedural commentary from applicant
1248 and/or others? Or do we hear first on the procedures?

1249

1250 **BRAD JERBIC**

1251 Again -, it's my recommendation that you limit this part of the discussion to procedure only, but
1252 you give the applicant and anybody else who wants to speak on the procedural issues only an
1253 opportunity to talk.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1254 **MAYOR GOODMAN**

1255 And therefore, I'm going to ask you when it gets sliding off the procedural piece to make
1256 comment.

1257

1258 **BRAD JERBIC**

1259 We'll stop anybody who goes off the procedural piece of this discussion.

1260

1261 **MAYOR GOODMAN**

1262 Okay.

1263

1264 **STEPHANIE ALLEN** Good afternoon, Your Honor, members of the Council, Stephanie Allen,
1265 1980 Festival Plaza, here on behalf of the applicant. We appreciate the opportunity to at least
1266 address the procedural issues.

1267 From our perspective, the City creates the rules. You have your Code, you have your rules.

1268 We're trying to play within those rules, and I feel like it's been years of us trying to play within
1269 those rules, and the rules keep changing. The goal line keeps moving.

1270 We've had multiple applications, and they've changed throughout the course of the last three
1271 years, mostly at the direction of City staff or - this Council. So we've made adjustments and
1272 changes, but those have all been at the request of City, which we've been trying to play within
1273 the rules.

1274 In this particular instance, it's again the same thing. The development agreement was a few years
1275 ago. There was huge outcry over the development agreement, and that was denied. So we had to
1276 start over with the, with the applications that are before you today. We had those applications.

1277 We've had them in the system. Until today, we haven't heard that this was an issue or that you
1278 wanted to strike them from the agenda. You abeyed them three months ago, specifically because
1279 you said this was such an important vote that you wanted Councilman Crear to be here.

1280 I met with Councilman Seroka and counsel a couple days ago and all of you, actually. Never
1281 once was there a request that we, or even a mention that these issues needed to be addressed
1282 today. So this is a surprise to us, and I feel like the rules (sic) continue to change. The procedural

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1283 rules continue to change, and we're constantly trying to come up with our arguments at the dais
1284 just so that we can have some due process and have a public hearing.

1285 So to address the two points that he has raised today, that I was unaware of, the GPA, State law
1286 is very clear in 278A that zoning takes precedent over a General Plan. It's in 278A in the
1287 Tentative Maps - statute-

1288

1289 **COUNCILMAN COFFIN**

1290 Your Honor, I, I've got to-

1291

1292 **MAYOR GOODMAN**

1293 No, no, no, let - her finish, please.

1294

1295 **STEPHANIE ALLEN**

1296 -and state law-

1297

1298 **COUNCILMAN COFFIN**

1299 Well, I, she can finish. I'm just trying to be polite here. What I'm saying is though we have to be
1300 careful not to move into the issue. The question should be, Has the attorney made the right
1301 interpretation in your opinion, or is the Councilman's motion out of order, in your opinion? That,
1302 that's got to be pretty much what I think we have agreed to, or we will fight the whole battle for
1303 another six or eight hours.

1304

1305 **MAYOR GOODMAN**

1306 Please continue.

1307

1308 **STEPHANIE ALLEN**

1309 Through you, Your Honor, procedurally, the issues that he's brought up, I have to start with the
1310 statute cause that's the way that law works, and I know the Councilman's quoting all kinds of
1311 statutes and - case law that I'm not aware of and haven't had an opportunity to look at. But I'm

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1312 happy to look at those cases. But I can tell you zoning law, under 278A.349 says that zoning
1313 takes precedent over a General Plan. And this particular property has R-PD zoning. Before this
1314 applicant bought the property, we came to the City and asked for a zoning opinion letter, and that
1315 zoning opinion letter says we're allowed up to 7.49 units to the acre. That's where we started.
1316 That was the first rule of the game. Do we have zoning, and if so, what can we do under that
1317 zoning? Up to 7.49. So that was the first play we made before he even closed on this land. Then
1318 we start submitting applications, and they have changed significantly over the course of the last
1319 three years. And the opposition has done a great job of playing within those rules and
1320 maneuvering and having procedural games, if you will. Sorry for lack of a - better word, but they
1321 seem like games to us from our perspective.

1322 The GPA is in your Staff Report right now and says that that is not required, and your Code says
1323 that it is not required. It is, it is, it shall be considered to be in the spirit, and the reason that
1324 language is in there, when you come in with a zone change, your staff requires us to submit a
1325 GPA because, of course, you cannot come in with a zone change until you have a General Plan
1326 that matches that. In this case, the zoning's in place, and the General Plan is not consistent. So
1327 your staff has said time and time again, your City Attorney has said time and time again, it's not
1328 required because the reality is if you deny the GPA, we still have zoning on the property. We
1329 have R-PD7 zoning.

1330 So, today, to strike it from the agenda is just another delay tactic to put us back to the beginning,
1331 to probably put us under the ordinance that passed just a few hours ago, and to create this
1332 additional bureaucratic layer of things that we have to comply with, rules that continue to
1333 change, that are trying to prohibit the development of this property. At least that's the way it
1334 feels from our perspective, from our procedural perspective.

1335 Every property owner in the City has a right to due process. Whether you like the applications or
1336 not, they have a right to bring applications forward. Your staff accepted those applications, and
1337 by the way, it's a fine staff, they know what they're doing. They've done this for years and years
1338 and years. They have Staff Reports that are consistent with exactly this type of situation, where
1339 they have made these type of recommendations. They accepted it back in 2007. They asked us to
1340 file a GPA amendment. So, again, a rule they're asking us to comply with. We said we don't

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1341 think we need a GPA. They said file it even if it's under protest. So, again, trying to play within
1342 the rules, we file the GPA request under protest for a different designation; the first one was
1343 Low, this is Medium Low. On a different portion of the property. There's been a GPA on the
1344 corner, there's been a GPA on a portion of this property, and this is the first one that's been
1345 submitted under Medium Low.

1346 We complied. We did as your staff asked. And in fact, even though it was under protest, we said
1347 okay, we held the application. We took more delay, more time just so that we could comply with
1348 your staff's request. We'd like a hearing on that.

1349 As far as the Major Modification, which is the second point. Judge Crockett's ruling is one -
1350 judge, and I'd argue that this Council, and there's State law to support this, has the authority to
1351 interpret your own laws, and you cannot, your judgment cannot be superseded or substituted by
1352 any judge, not the Supreme Court, not Judge Crockett. No judge can step in your shoes and make
1353 a judgment call that supersedes your decision. It's against the law. It would eliminate the reason
1354 for you all to be up here, to even have your leadership in the spots you're in if any judge could
1355 come in and say, I think that they did that wrong, and they should, we should substitute this and
1356 do it differently.

1357 So Judge Crockett's ruling, at that hearing, your attorney, again these are the rules we're playing
1358 by, your attorney argued that there is no Major Modification required. I have the transcript, and
1359 I'm happy to submit it for the record. But this is Mr. Burns, who did a nice job at the hearing,
1360 said the Court's entire finding is based upon the premise that the Major Mod, under 19.10.040,
1361 applies to this property, and it doesn't. He says that in the hearing. And then this Council decides
1362 to not appeal that determination. So he argues no Major Mod is required. We argue no Major
1363 Mod is required. We come to you and say, Can you, this is the only application you've approved,
1364 by the way, it's the corner, the 435 units at the corner, the only application that this Council has
1365 approved. We go to court on the hearing. Your attorney does a fine job of arguing it. We argue it.
1366 The judge rules differently, and then we come to you to ask that it be appealed, and you all say,
1367 No, we're not gonna appeal that decision. And then you turn around and you're gonna say we
1368 need to do a Major Mod. I mean, it's - amazing. We either, we've gotta decide which direction
1369 we're going. We'd ask for this Council's leadership to please give us the rules, we'll play by the

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1370 rules, and - let us move forward and give us a hearing under those rules, rather than continuing to
1371 change things and put blockades in front of this particular applicant.
1372 All he wants to do is develop. If you wanna say no, you have that discretion. Give us a public
1373 hearing and allow us the opportunity to make our case and have the due process, and then the
1374 courts will weigh in. But you all have the authority and the discretion to interpret your Code and
1375 to use your judgment as to whether this development is appropriate or not. So we would very
1376 much appreciate a hearing today.

1377

1378 **MAYOR GOODMAN**

1379 Thank you, thank you.

1380

1381 **MARK HUTCHISON**

1382 Mayor, thank you. City Council members, thank you for the opportunity to appear before you.
1383 I'm Mark Hutchison, appearing in my private capacity as counsel for the applicant. Just wanted
1384 to just make one clarification with Ms. Allen's point on the GPA. The - statute is NRS 278.349. I
1385 just want to make sure that was - clear on the record.

1386 On the Major Modification point raised by Councilman Seroka, you've heard repeatedly and, in
1387 fact, there's been findings judicially that the property that's the subject of these tentative maps is
1388 zoned R-PD7. It was established back in 2001, by Ordinance 5353, which was unconditional and
1389 all prior ordinances in conflict with the zoning were - repealed. Under those terms, the Peccole
1390 Ranch Master Plan, adopted in 1990, has no application to the property or to the tentative map.
1391 Initially, it was repealed by the 2001 Ordinance No. 5353, which I'm happy, again, to - submit
1392 for purpose of the record.

1393 But let me turn now to what was discussed extensively about Judge Crockett. First off, you're
1394 wading into an area of law that is - not simple. You want to say Judge Crockett's decision applies
1395 to every single parcel that's out there with the Badlands Golf Course or every application from
1396 my, from my client. That is vehemently opposed legally by my client as a matter of law. You
1397 need to understand that Judge Crockett's decision did not involve this applicant, did not involve
1398 this applicant. It did not involve this application, did not involve the property subject to this

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1399 application. It involved the 535 units, as you've already heard and as your staff has already
1400 indicated to you. And so the idea that Judge Crockett's opinion applies across all the properties is
1401 hotly disputed and is a legal question not for this Council.

1402 Secondly, I'm a little concerned that if you were briefed extensively on the Judge Crockett
1403 decision, why you were not equally briefed on the Judge Smith decision. Maybe you were. If you
1404 weren't, I'd like to submit this for the record. Judge Smith held a extensive evidentiary hearing,
1405 multiple days, involving the actual applicant of 180 Land. And he ruled just the opposite of
1406 Judge Crockett and said the golf course land and the land was developable. And so I would like
1407 to have the City Council briefed on this case. And I'm not sure why you weren't briefed on this
1408 case. Two different opinions, two different conclusions, but this Council ought to make its own
1409 decision, ought to make its own (sic) conclusion.

1410 And Mayor, you asked a fair question in terms of why not let the Supreme Court sort all this out.
1411 And - Brad, you can, you can back me up and Todd or whoever else is here as - counsel. You're
1412 not talking months for the, for the Nevada Supreme Court, you're talking years.

1413 And - your City Attorney is absolutely right. My client is entitled to due process. Two and a half
1414 years has already passed. Another three years or two years for the State of Nevada, the - Nevada
1415 Supreme Court to rule, that's not due process. That's not equal protection under the law. You
1416 might as well just concede the inverse condemnation. There's been so much delay, so much
1417 delay. And I know you cringe about that a little bit up there. I would too if I were in your
1418 position, but that's what happens. You can't keep kicking the can down the road. Eventually, the
1419 courts say it's futile to - be before this body. You're just gonna keep continuing it. You're just
1420 gonna keep delaying it. And that's what we saw, I think, with this motion now. We were here in
1421 February, and it was very clear, come back in May. We want to make sure we've got a full City
1422 Council, super important issues being decided. The first thing out of, out of anybody's mouth is
1423 let's delay this more. This is, we're - if we're not already there, we're quickly approaching the
1424 point where it's just futile to be before the City Council. If you don't want this property
1425 developed, condemn it and pay for it, because that's where it's headed, and it seems like the
1426 continued delay takes us in that direction.

1427 So I'll just ask the Council to consider both opinions, because you've got two different judges.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1428 One of them actually had this applicant before him in making the decision. Judge Crockett didn't.
1429 And this property wasn't before Judge Crockett either and neither was this, neither was this
1430 application. So I would just ask, if you would, please to let us proceed with this application. If
1431 you're gonna deny it, you're gonna deny it. If you're gonna grant it, you're gonna grant it. But
1432 don't abate [sic] it. Don't dismiss it. Don't strike it. My client's entitled to a decision from this
1433 body.

1434 Thank you very much, Your Honor. Thank you very much to the City Council.

1435

1436 **MAYOR GOODMAN**

1437 Thank you.

1438

1439 **ELIZABETH GHANEM HAM**

1440 Good afternoon. Elizabeth Ghanem Ham, on behalf of the applicant. I just wanna clarify one
1441 other thing because I have been involved with the hearing since I've joined this applicant as in-
1442 house counsel. And having heard your decision on the appeal was - a few things, and that is that
1443 staff and Mr. Jerbic aptly reported to this Council that Judge Crockett's decision was legally
1444 improper. Told you all that, and - that's on the record. In doing so, you decided that the reason
1445 you wouldn't appeal it, the sole reason you wouldn't appeal it, at least it was Mr. Seroka,
1446 Councilman Seroka's position, excuse me, that the basis was that you didn't want to spend the
1447 resources on it, although we believe you have proper City attorneys that could have and should
1448 have been appealing it. So I just want to make clear that your own staff and your own counsel
1449 told you at the time it was a legally improper decision. And that's all I wanted to add to it. Thank
1450 you.

1451

1452 **MAYOR GOODMAN**

1453 Thank you.

1454

1455 **MICHAEL BUCKLEY**

1456 Madam, Mayor, members of the Council, Michael Buckley, on behalf of the homeowners. I -

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1457 think there's really a couple of things that are very simple here that - get obfuscated in - the
1458 process. This property has a GPA designation of PR-OS. That's a fact, that's - a fact. It's been
1459 there.

1460 The applicant filed last year to a, for a General Plan Amendment to Low. That was denied on
1461 June 21st. They have now filed a GPA for Medium Low. That is a less intense use. Under the
1462 Code, an application for a General Plan Amendment for a parcel in which all or any part was the
1463 subject of a previous General Plan Amendment application for the same land use category or a
1464 less restrictive land use category shall not be accepted until the year has passed. So it is PR-OS.
1465 Whatever the City staff has determined, that is a fact, it's PR-OS and this is a GPA to a less
1466 intense use, or excuse me, a more intense use. That's as far as the GPA. So this GPA should not
1467 have been accepted until after June 21st.

1468 With regard to the Major Modification and Judge Crockett's ruling, there's the statement that the
1469 rules have changed. Well, the applicant has known since Judge Crockett made his ruling that a
1470 Major Modification is required. A Major Modification could have been filed along with the
1471 GPA. There's - no reason why that couldn't have been filed.

1472 But the - City and - regarding Judge Smith's lawsuit, the City is a party. The City is bound, I
1473 think Councilman Seroka, Councilman Crear, Councilman Anthony recognize the Judge ruled.
1474 The - order is not stayed. The City is bound by that order. If the, if the City processes this
1475 without a Major Modification, the City is opening itself up to some kind of a motion by the other
1476 side for contempt of the, of the order. I mean the - City is bound by the order.

1477 So I think it's really pretty simple. And I think one thing I think it's - important to remember too,
1478 Judge Crockett didn't invent the Major Modification. He went back and he said this is what your
1479 staff, when you first filed this application, back in the end of 2015, the staff said this is part of
1480 Peccole Ranch Phase 2 Master Plan, you need a Major Modification. That - that's what Judge
1481 Crockett ruled, that was what the staff ruled, the, so the judge didn't invent this. The judge came
1482 and -supported what your staff had originally stated was the case. So, and - as far as whether the
1483 435 is bound by this or not, the Judge ruling applies to Peccole Ranch Phase 2, it applies to all of
1484 it. So two things, this is PR-OS. It needs a GPA before you can build residential on it, and the
1485 City is bound by the Major Modification according to Judge Crockett. Thank you.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1486 **MAYOR GOODMAN**

1487 Thank you.

1488

1489 **FRANK SCHRECK**

1490 Madam Mayor, members of the City Council, Frank Schreck, 9824 Winter Palace Drive. Just a
1491 couple things I want to touch on and they're purely procedural. We've gone over this a lot of
1492 times, so I'm just gonna touch the highlights.

1493 Mr. Jerbic for two and a half years has now said that there's hard-zoned R-PD7 on the golf
1494 course. There isn't. Have him show you where it is actually zoned. The letter from December of
1495 2014 was from a level one staffer that said exactly what it was, that Peccole Ranch was an
1496 R-PD7, and then it explained what an R-PD was. It's a development that you could have mixed
1497 residential uses, open space, golf courses, recreational things. It's not a zoning letter. It was never
1498 intended to be a zoning letter.

1499 The City did issue a zoning letter in 1990 after it had its hearings on the zoning. And that zoning
1500 letter said under the R-PD7 district. Now that's what that letter says. It talks about a district, and
1501 the district was 996 acres of Peccole Ranch Phase 2. That's what it was. There's not each acre
1502 zoned seven. Mr. Jerbic would like you to believe that it's R-7. It's not. It's R-PD7. The seven
1503 was picked by the developer as a number, because he wanted to multiple the seven times 996
1504 acres because that's what the ordinance says. It says you take your entire district, you select a
1505 number. Canyon Gate was four, I think Painted Desert is nine, I think Silverton is three. They
1506 pick whatever number they want, and they multiply it times the gross acres in that district to
1507 come out with the maximum number of residential units you can have within that whole district.
1508 That's exactly the process that was filed. They got a number. The developer gave up in front of
1509 the City Council, when he got his approval of the master plan and specific zoning, he gave up
1510 2,200 of them and asked for 4,247, and that's been the number of residential units for the last 25
1511 plus years.

1512 Okay. So it is, that is in the zoning letter. The only zoning, final zoning letter that's came out was
1513 the letter that came out in 1990 from the City, because what the City said in - your minutes, that's
1514 all you have to look at, the City said with the applications for the developer that here's what the

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1515 developer wants, and they're listed there. Here are the uses. They listed 401 acres of single-
1516 family, 60 acres of multi-family, 211 acres of drainage.
1517 Then they go to what the zoning is gonna be. The 401 will be 401 acres of R-PD7 hard zone.
1518 That's the hard zone, 401 acres. It's off the golf course. If the whole thing was R-PD7 hard
1519 zoned, why would you have to come in and ask for 401 acres to be hard-zoned R-PD7? You
1520 don't. So they did 401 acres of R-PD7. They multiplied seven times the 401. They took 60 acres
1521 of R-3, which is 24 to an acre. They multiplied that. They got the total of 4,247 and that's what
1522 they asked for and that's what they received and that's what the letter says. The only specific
1523 residential zoning ever until you zoned the 435 in 2016-

1524

1525 **COUNCILWOMAN FIORE**

1526 So, Mr. Schreck, since I'm new-

1527

1528 **FRANK SCHRECK**

1529 -but can - I just finish?

1530

1531 **COUNCILWOMAN FIORE**

1532 Yeah, I just wanna be crystal clear I heard you right.

1533

1534 **FRANK SCHRECK**

1535 Sure. Okay.

1536

1537 **COUNCILWOMAN FIORE**

1538 You're basically telling us and the Council that our legal counsel is wrong. Is that-

1539

1540 **FRANK SCHRECK**

1541 Absolutely, 100 percent, and we've said that for two and a half years.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1542 **COUNCILWOMAN FIORE**

1543 I just had to clarify that you are basically saying our legal counsel is wrong. Okay, thank you.

1544

1545 **FRANK SCHRECK**

1546 I've said that for two and a half years.

1547

1548 **COUNCILWOMAN FIORE**

1549 Thank you, Mr. Schreck.

1550

1551 **FRANK SCHRECK**

1552 And we've submitted briefs on it. We've submitted a professor from the University that said the
1553 same thing. We're not just making this up. We've submitted the documents. If you've ever had
1554 the interest in looking at what your zoning was in 1990, you'll see what the City zoned in 1990. It
1555 didn't zone R-PD7 on the whole golf course. The golf course was - drainage and golf course, no
1556 residential on it. And in 1992, the City picked that up when they did their - General Plan in 1992,
1557 and by ordinance, they adopted PR-OS over every master plan community, including the one in
1558 your district or the ones in your district. That PR-OS was done on all of these, not just
1559 Queensridge. And it's been that way since 1992, recognizing what had already been zoned in all
1560 these master plan communities. So it isn't 7.49 per acre or zero to 7.49 per acre. And that's the
1561 key to Judge Crockett's decision. As was mentioned, Judge Crockett took your own Staff
1562 Reports. Ms. Allen says, Your staff is great, look at those reports. Well, you look at those reports
1563 with his first application. Three that he won at 740, and then those were kind of substituted with
1564 four applications after that, which was for 250 acres. And those seven went along together,
1565 which they shouldn't have, but we argued that the four superseded the three, but they kept going
1566 forward.

1567 And within those four applications, the developer recognized he needed a Major Modification.
1568 He had a Major Modification, and we're hearing now that somehow the - GPAs, General Plan
1569 Amendments are somehow, well, you don't need them, maybe you don't. They filed for how
1570 many GPAs over the last two and a half years? If they weren't necessary, why were they filed?

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1571 It's the same thing the court said. Why did all of a sudden the requirement for Major
1572 Modifications just kind of disappear?
1573 And now, according to your staff, the requirement for GPAs suddenly just disappears. There's
1574 never been any zoning, you know, entitlements on that golf course. What your staff said, and it
1575 says really clearly and we provide you all the transcripts, your staff said if you want to put
1576 residential on the golf course, you have to follow two steps. The first step is you have to amend
1577 the Peccole Ranch Master Plan by a Major Modification, according to your ordinance and
1578 according to your staff. And once you do that, then you have to amend your General Plan,
1579 because the General Plan is PR-OS, no residential. So you have to amend that too.
1580 You have to take step one, step two. That's what your staff says over and over again in those
1581 Staff Reports of 2016. Interesting that staffer that wrote those reports, which were actually, you
1582 know, real, we've never seen them again. Somehow the - guy that wrote those is now no longer
1583 writing your reports.
1584 But here is a key that you better take into consideration, and that is the basis of the inverse
1585 condemnation lawsuit against you is that the developer has rights to build on that golf course,
1586 that he has a right to build from zero to 7.49, that Mr. Jerbic has been arguing over and over and
1587 over again. The prophylactic defense you have in inverse condemnation is Judge Crockett's
1588 decision, that thank God you didn't appeal, because Judge Crockett's decision says you need to
1589 have a Major Modification. Which what does that mean? It means you don't have any
1590 entitlements on that golf course. You have no residential on the golf course. So you have to get a
1591 Major Modification to come in and put it on. So you can't take away a right from this developer
1592 that he has never had. And if you look at those inverse condemnation lawsuits, the only people
1593 quoted and the only positions taken are by your staff. And we've said that all along. And Mr.
1594 Jerbic has been wrong for two and a half years and going onto this, and we've showed you not
1595 our opinions, we've showed you, we brought in expert testimony, we brought in all the
1596 documents, we brought in everything to show you just exactly what it was. And if you want to
1597 know, Councilman Fiore, just go look at the 1990 approvals from the City Council. You'll see
1598 what it was zoned.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1599 **COUNCILWOMAN FIORE**

1600 Thank you, Mr. Schreck. Can I ask my staff if what he is saying is correct?

1601

1602 **ROBERT SUMMERFIELD**

1603 Madam Mayor, through you, he said a lot of things. So I would need to know specifically what
1604 you would like us to verify.

1605

1606 **COUNCILWOMAN FIORE**

1607 Thank you, Robert. So yes, what I'd like to know is as we've been going along this and staff has
1608 been advising Council on the zoning issues on all of this, what Mr. Schreck is saying is that
1609 you've been wrong all along all this time. Can you tell me if you're, is this correct? Do you feel
1610 you're wrong?

1611

1612 **ROBERT SUMMERFIELD**

1613 Again, through you, Madam Mayor, staff's position has been consistent throughout this process.
1614 The development has changed based on the - nature of the discussions that have occurred and the
1615 changes that the applicant has made to their requests. Therefore, our analysis has changed based
1616 on those different circumstances, depending on the size of the project, the nature of the
1617 applications that were requested. But the overall analysis has stayed consistent, in my opinion, as
1618 the current Director of Planning, and I do not believe that we are incorrect.

1619

1620 **COUNCILWOMAN FIORE**

1621 Thank you. And Mr. Jerbic?

1622

1623 **BRAD JERBIC**

1624 I - will say one thing. One, I'm not gonna get involved in the politics of this. I'm just trying to
1625 give you the law. But if the law were as simple as Mr. Schreck says it is, he would have done us
1626 a big favor and won this in court three years ago. Because if - we were wrong and I was wrong
1627 and I've been wrong before and I'll be wrong again, but if I'm wrong on this issue, then I really,

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1628 really wish the opposition had gone to court and won a victory and spared us the agony of this
1629 hearing right now. That did not happen.
1630
1631 **FRANK SCHRECK**
1632 Yeah, it did-
1633
1634 **BRAD JERBIC**
1635 That did not happen.
1636
1637 **FRANK SCHRECK**
1638 The first-
1639
1640 **BRAD JERBIC**
1641 And - in spite of what, you know, here's the other thing. We have a saying in my office
1642 sometimes when we get into this kind of a discussion and it's too much college, not enough high
1643 school. Everybody's up here trying to turn this into a legal argument and trying to make an
1644 attorney say something or - do something that isn't the appropriate role for the attorney. My role,
1645 whether you like it or not or Mr. Schreck likes it or not, is to tell you what I think the law is as I
1646 read it. I don't really care one way or the other about the application, or I should put my name on
1647 a ballot and run for City Council.
1648 I'm not the eighth member of this Council. I'm just here to give you legal advice, and sometimes
1649 it's a little murky. Sometimes it's not exactly what you want to hear. But at the end of the day,
1650 this is a little more high school, not so much college, cause all of these legal arguments, as -
1651 stimulating as this debate is, really mean nothing until a court rules on it. If I am wrong, then
1652 Mr. Schreck should take me court and say there's no R-PD7, and therefore, you are, the
1653 developer doesn't have a right to develop. That would make this so much cleaner. That has not
1654 happened. Okay?

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1655 **FRANK SCHRECK**

1656 It has happened. That's the Crockett decision. The first time there was any residential zoned onto
1657 our golf course, we went to court, we had it reviewed, and the gravamen of Judge Crockett's
1658 decision is you need to have a Major Modification. You wouldn't have to have a Major
1659 Modification if there was already entitlements for residential on the golf course. That's what his
1660 decision says.

1661

1662 **BRAD JERBIC**

1663 Let me-

1664

1665 **FRANK SCHRECK**

1666 That's what your Staff Report says, Mr. Jerbic, which you never refer to anymore. Your Staff
1667 Reports make it clear, in – 19 (sic) 2016, that you have to have a Major Modification cause
1668 there's no residential on the golf course. And that's, we waited until we got some ruling against
1669 us, and we did go to court as soon as we could, Mr. Jerbic, and we did get a decision saying and
1670 confirming what we've been saying all along. You just haven't wanted to accept it.

1671

1672 **BRAD JERBIC**

1673 Mr. Schreck, we're not gonna debate, and you are wrong. That is just a flat-out truth. You are
1674 wrong. The Judge said there's a Major Modification. If you get a judge to say there's no R-PD7
1675 out there, I will follow that decision right now, and these applications will be gone.

1676

1677 **FRANK SCHRECK**

1678 It's an R-PD7 district. It's not hard-zoned R-PD7 residential on a golf course.

1679

1680 **BRAD JERBIC**

1681 Well, and I - can also produce a transcript of a Planning Commission meeting from October of
1682 2016, when then Commissioner Crear, when he was Planning Commissioner, asked me on the
1683 record what the R-PD7 meant, and I don't have it with me today, because I didn't anticipate this

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1684 discussion, but I said flat-out it gives the applicant the right to ask. That's it. And I don't want
1685 anybody saying anything more. And he is here asking. That's all this is.
1686 So trying to boil this down to something simple that you can get your arms around before we get
1687 into some massive legal debate here, that means nothing until a court rules. My recommendation
1688 is apply the high school part of our brain, not the college part and ask yourself do you believe
1689 there's substantial overlap between the GPA today and the old one. And if you do, then it's
1690 untimely and he's got to wait another month. If you don't believe there's substantial overlap
1691 between the two of them, then go ahead and move past that procedural issue on to the next one.
1692 The next one is Judge Crockett's decision. If you believe that you should follow that as the law of
1693 the land until the Supreme Court intervenes, that's fine with me. I don't think that's the way
1694 individual judge's decisions are interpreted, but if you want to make it into that, that's fine and
1695 say you require a Major Modification. If you think it is a judge and you wanna wait until the
1696 Supreme Court and you wanna disagree with that judge with all due respect, you can do that too.
1697 That's playing the law right down the line and not playing the politics of it. I know it's not a black
1698 and white answer that makes you happy, but that's the law.

1699

1700 **FRANK SCHRECK**

1701 That - isn't the law, Let - me just finish and I'll sit down.

1702

1703 **COUNCILWOMAN FIORE**

1704 Yeah.

1705

1706 **FRANK SCHRECK**

1707 The law is what Judge Crockett said it is. He interpreted your ordinance differently than
1708 Mr. Jerbic did. You didn't appeal it, so that's the City basically accepting it, and then you didn't
1709 ask for a stay, so it's applicable right now, tonight, as Mr. Buckley said. It applies to you now.

1710

1711 **MAYOR GOODMAN**

1712 Thank you.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1713 **YOHAN LOWIE**

1714 Okay. Yohan Lowie, property owner for the record. Judge Crockett's order is faulty, because he
1715 bought into the lie and deception and corruption that Frank Schreck had raised in the beginning
1716 with his Peccole Ranch Master Plan. We are simply not a part of Peccole Ranch Master Plan.
1717 Judge Crockett asked your City Attorney in court, are we, if this is a part of Peccole Ranch
1718 Master Plan. And his answer was, it's very complicated, because God forbid the City will take
1719 the position that right now, after all this mess, it's not a part of Peccole Ranch, it is not a part of
1720 Peccole Ranch Master Plan.
1721 So let me just clue you in on this. Peccole Ranch Master Plan was two pieces of paper. One
1722 action was 17 pages conceptual Peccole Ranch Master Plan. The next page was a drawing that
1723 shows requested zoning. The Peccole Ranch Master Plan has zoning only categories for R-PD7,
1724 R-3 and C-1. And he talks about is a conceptual master plan that it, it's a trend. And it is these
1725 trends that becomes the basis of the plan that will be maintain - flexibility to accommodate future
1726 market changes, which mean they can change zoning and densities any way they want to.
1727 Furthermore, this Peccole Ranch Master Plan is governed, has to be governed under this
1728 document by CC&R they're applying to the property. So we, when we purchase a property, we
1729 research it with this body here, with your staff for six months about all the history of this piece of
1730 property. Not one time anybody mention Peccole Ranch, because it's not recorded on the
1731 property because it's expired. By its own term here, the second action, the zoning action was
1732 under resolution of intent and expired in 1995. Peccole - Ranch Master Plan does not apply.
1733 And then - I went, we went when - they raised it in litigation. A few months after we purchased
1734 the property, they raise, oh, Peccole Ranch Phase 2 applies to the property. When you look at the
1735 documents for Peccole Ranch Master Plan, which is out of [inaudible], it says specifically within
1736 the documents that if Phase 2 is not annexed into Phase 1, the public area and all public spaces
1737 annexed into Phase 1, including a future maybe golf course annexed into Phase 1, is not a part of
1738 Peccole Ranch.
1739 Peccoles had a lawsuit with Triple Five and had stopped the – partner, partnership with Triple
1740 Five in late '95 and in '96 have created a new master plan called Queensridge. The master plan
1741 community of Queensridge does not include any portion of the golf course, except the nine

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1742 holes, almost 100 acres that in this bogus Peccole Ranch Master Plan that somehow we're trying
1743 to apply to this piece of property show the property as R-PD7. So there is large area of the golf
1744 course today, of the old golf course that is developable property today, is developable under the
1745 original Peccole Ranch if it was to apply.
1746 Judge Crockett, it was never in front of Judge Crockett if the master plan applies to this piece of
1747 property. He would have to find out that it's not. It could not. It possibly cannot, because
1748 somebody has to get a notice. And to sit here and discuss here and in court Peccole Ranch
1749 Master Plan, we have to put an end to this, and we're going with another inverse condemnation
1750 based on that. So there'll be new lawsuits filed, you know, after the ordinance that just passed,
1751 and some more lawsuits will be filed after these applications will be heard if they don't pass. We
1752 are not a part of Peccole Ranch Master Plan, so, therefore, Major Mod cannot be required.
1753 Now, let's talk about this PR-OS. The old PR-OS that is installed on this piece of property took
1754 all the units off from 7.5 units per acre to zero. It's an illegal action, admitted by City Attorney
1755 and staff. You don't have one document to show how you had a notice to the public. Few days
1756 after legal notice meeting, some staffer runs in and changed the designation, changed the color of
1757 the golf course in 2005 into green.
1758 What you heard today that, in 1992, this piece of property was PR-OS, it's an absolute lie. It
1759 could not be because the property was not identified. So I saw something from the staff now,
1760 changing the position and saying, oh, in '92, we did the blob. Maybe your house was in the
1761 PR-OS, maybe somebody else. We gonna go on every blob and every piece of property going to
1762 come from development, we're gonna file a suit under your ordinance that it is within this blob of
1763 this PR-OS. It should be. It's not, but it should be.
1764 So the ordinance that you just passed is - so cumbersome and involves so many properties. I
1765 know you tried to target, and it's only targeting my property, the Badlands. But you know, for
1766 Councilman Seroka, all you've done here and all this dishonesty, when we accept this dishonesty,
1767 it leads to criminality. Sometimes it's in the form of corruption, and sometimes is in the form of
1768 government abuse, and in this case, it's both. Thank you.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1769 **MARK HUTCHISON**

1770 Your Honor, I'm - sorry to come up a second time. I neglected to just ask that these documents
1771 be submitted for the record. I'm - sorry when I was up here.

1772

1773 **MAYOR GOODMAN**

1774 Please.

1775

1776 **MARK HUTCHISON**

1777 And what they are, Your Honor, they just go to, again, the procedural issue and what Mr. Jerbic
1778 was - addressing. It's the Notice of Decision of the State Board of Equalization as well as three
1779 different determinations by the Clark County Assessor's Office. They determined that, in fact,
1780 the land that we're talking about ceased to be used by a golf course on December 1, 2016. It no
1781 longer falls within the definition of open space real property and is no longer deemed to be used
1782 as open space for tax purposes. Further, the land has been converted to a higher use.
1783 The Nevada State Board of Equalization approved that, Your Honor, and as a result, my clients
1784 have paid over \$1.2 million in taxes, not based on PR-OS, but based on 233 acres vacant multi-
1785 family residential, excuse me, vacant single-family residential. Another 17 acres vacant multi-
1786 family residential. General Commercial on 2.37. My client is paying taxes not on PR-OS, but on
1787 residential and commercial designations, Your Honor. That's according to the State of Nevada
1788 and Clark County. Thank you.

1789

1790 **BRAD JERBIC**

1791 I -, I'm gonna jump in here.

1792

1793 **MAYOR GOODMAN**

1794 Is that submitted?

1795

1796 **BRAD JERBIC**

1797 The - two arguments that were on the floor right now, and I asked everybody to contain

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1798 themselves to, are the argument about the GPA, whether or not it's duplicitous, and that's a
1799 procedural part of the Councilman's motion, and whether or not a Major Modification should be
1800 required. The, it's beginning to squirt now into PR-OS and all this other stuff. If - the people at
1801 the podium can contain themselves just to the procedural argument right now, there will be
1802 plenty of time later, if we get past it, to talk if the motion doesn't pass. All right.

1803

1804 **DOUG RANKIN**

1805 Doug Rankin, on behalf of the homeowners in the area. I - will save my part regarding the
1806 zoning ordinance of 2001, if - it does move forward, to discuss what that ordinance did as the
1807 final act of ordinance all of the properties in Peccole Ranch.

1808

1809 **BRAD JERBIC**

1810 Right. If it does move forward, we'll, you'll absolutely have an opportunity to make that record.

1811

1812 **DOUG RANKIN**

1813 Thank you.

1814

1815 **BOB PECCOLE**

1816 Bob Peccole. I'm a homeowner. I live at 9740 Verlaine Lane. I am an attorney. I've been a
1817 practicing attorney in this state for over 55 years. A couple things I'd like to address.
1818 First of all, Mr. Hutchins (sic) stood up here with the Judge Smith decision and flashed it. I
1819 happen to be the attorney that has appealed that decision to the Nevada Supreme Court. It is now
1820 in a position to be set for hearing. And just like Mr. Jerbic, I feel that I'm correct and it - will be
1821 reversed. It will be set aside. And I challenge Mr. Hutchins (sic) who says that Judge Smith ruled
1822 one way and Judge Crockett ruled the other way. I don't see anything in Judge Smith's decision
1823 talks about Major Modification. And I ask him to present that part of the case to you, instead of
1824 just standing up here and flashing that decision. I've lived with it for almost a year and a half, so
1825 I know what's in that decision.
1826 Another part, I've been a Chief Deputy Attorney General for the State of Nevada. Among my

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1827 clients as a Chief Deputy were some of the top agencies in the State of Nevada that I legally
1828 advised. How about the Athletic Commission, which is the Boxing Commission? How about the
1829 Architectural Board? How about the Racing Commission and many others, including this entire
1830 office of the Attorney General down here in Clark County?
1831 I would be appalled to tell any of my agencies when there is a decision of a court judge telling
1832 me I must recognize a certain point and I must abide by that. That ruling becomes one that is the
1833 law. And if I were to tell my client, oh well, but as a matter of policy, you can ignore it, I would
1834 have the same concerns that Councilman Crear has. Am I going to jail? Yes, you are. I don't
1835 know if any of these attorneys sitting in the public here have ever been involved in those types of
1836 hearings when you're held in contempt.
1837 I've been involved in those, and I know how they work. And it wouldn't take anything if you
1838 were to take Mr. Jerbic's advice and say, well, we can ignore that decision because this is the
1839 way I think it works. Well, you could all end up in jail. And it, and it does happen. And it just
1840 depends on who - pushes that contempt. So you got to keep that in mind. You can't just ignore it
1841 because that isn't the way it works.
1842 Now, that judgment stands solid until it's either stayed by the court or it's reversed by the court.
1843 But until those two things happen, that judgment is solid. Now I, and that's an argument they've
1844 used against me in the Smith case. They've said because you don't have a stay, that judgment is
1845 valid. So what do they do? They take Smith's judgment, sues me and my wife for \$30 million.
1846 That's Mr. Yohan. He's quite the guy.
1847 But in any event, I would just like to say do not ignore the Crockett decision, because you're
1848 going to put yourself in trouble. The other part of it is you might have to take Mr. Jerbic's advice,
1849 you know, like maybe a grain of salt.

1850

1851 **COUNCILMAN SEROKA**

1852 Mayor, I'd like to call the question at this time. I believe we have established that the GPA is
1853 duplicitous and the GPA should not have been accepted, and that I also believe we've established
1854 that the law of the land, as it stands today, is Judge Crockett's decision, which requires a GPA
1855 and a Major, or correction, Judge Crockett's decision requires a Major Modification. And my

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1856 bottom line here is that I expect everyone to follow the Code and the law. If we're following the
1857 Code and the law, we all move forward. If we don't follow the - Code and the law, we have
1858 challenges.

1859 **So I move to strike the 74 through 83 from today's agenda, cause they should not have been**
1860 **accepted in the first place.** I did offer, and a head nod would work just fine, the offer to
1861 withdraw without prejudice your applications if you would like to do that, or not.

1862

1863 **STEPHANIE ALLEN**

1864 Through you, Madam Mayor. No, we would not like to withdraw those. We'd like to have those-

1865

1866 **COUNCILMAN SEROKA**

1867 **Okay. Then my motion stands, Mayor, and I call the question. I call for the vote.**

1868

1869 **MAYOR GOODMAN**

1870 Okay. There's a motion made by Councilman Seroka. And again, I'm gonna ask you, Mr. Jerbic,
1871 if in fact Council members feel that they don't have enough information and clarity on this, they
1872 have the permission to abstain.

1873

1874 **BRAD JERBIC**

1875 They do. I, I've never told anyone up here to vote when you don't feel you have enough
1876 information.

1877

1878 **MAYOR GOODMAN**

1879 But again, you have to reiterate they can't-

1880

1881 **BRAD JERBIC**

1882 I will, I will say this. It's gonna take four votes for the motion to strike to pass. If it doesn't pass
1883 and you've abstained and now we're onto the merits of the application-

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1884 **MAYOR GOODMAN**

1885 You can't come back in.

1886

1887 **BRAD JERBIC**

1888 You're still abstained.

1889

1890 **MAYOR GOODMAN**

1891 Right.

1892

1893 **BRAD JERBIC**

1894 And so it creates a - really, this is a law school question, to be honest with you.

1895

1896 **MAYOR GOODMAN**

1897 Right, and we're not lawyers.

1898

1899 **BRAD JERBIC**

1900 It's just bizarre.

1901

1902 **MAYOR GOODMAN**

1903 But my question is if, let's assume four members or five members abstain because they don't feel

1904 they have enough information and clarity, that's left with two people voting for it.

1905

1906 **BRAD JERBIC**

1907 It takes four people under any circumstances to pass, no matter who abstains.

1908

1909 **MAYOR GOODMAN**

1910 So then the motion dies. The motion at this point would die if in fact if people felt they are, have

1911 not enough clarity, enough information to make a sound judgment.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1912 **BRAD JERBIC**

1913 That's correct. And by extrapolation, if it died and you went on to the merits, that same
1914 abstention would carry over to that as well.

1915

1916 **MAYOR GOODMAN**

1917 And so as these issues, should it die, and as these issues are discussed item by item, because
1918 someone has abstained, they may not comment on those items as they come back?

1919

1920 **BRAD JERBIC**

1921 It -, It's hard to make an argument that you're not informed enough to vote on a motion for, to
1922 strike, but you are informed enough to vote on the merits of the case. Again, I - think this has
1923 been way overly complicated. They've tried, on both sides, have tried to turn this Council into a
1924 courtroom and -, by doing so, have - tried to make this decision a lot sloppier than it is. Which is-

1925

1926 **MAYOR GOODMAN**

1927 Which is why I said from the beginning let the courts decide. I don't understand why we're put in
1928 this position. There's not a lawyer-

1929

1930 **COUNCILMAN SEROKA**

1931 I believe I called the question to a vote.

1932

1933 **MAYOR GOODMAN**

1934 Excuse me, Councilman. Excuse me. This is something that is a legal issue. I don't know maybe,
1935 you have, and all deference, have done a lot of research in a legal manner. I don't feel confident
1936 in a, in a legal educational background to do other than rely on our staff, to, who are supposed to
1937 not be judgmental and advise us according to how they interpret the law.

1938 Now, the fact that the law has been set down by the District Court, are they and is Judge Crockett
1939 saying you must now address this and do this and change that and ask for a Major Mod on
1940 everything, or is it just a status quo, he's made his ruling and if there are further applications, new

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

1941 applications coming in because of his decision, the applicant would have to do it?

1942

1943 **BRAD JERBIC**

1944 Well, the - legal answer is his decision is limited to that set of facts. By extrapolation, if
1945 somebody went there with more lawsuits and said, hey, even though this is a different project, it's
1946 the same argument, you need a Major Modification, I have no doubt that Judge Crockett would
1947 say the same thing about every one of these applications. You don't know if you're gonna get
1948 Judge Crockett, and you don't know what the Supreme Court's gonna do.

1949 So let me just maybe suggest a different approach. There's kind of a cart before the horse thing
1950 here. The applicant gets a decision and then you go to court. You don't go to court and then get
1951 an application. Then we have zoning by judge. The applicant's entitled to a vote, up or down,
1952 and unless you think for procedural reasons he's incomplete in his application and then you make
1953 that record and that's what the Councilman has tried to with his motion on the procedural
1954 grounds, but if you think the procedural grounds are valid, then vote, you know in favor. If you
1955 don't, then move on to the next part of the application, and then let the courts decide.

1956 If - we do it the other around, the courts don't have facts to decide in this case. How does the
1957 applicant get to court on these three applications without you making a decision? You have to
1958 make the decision, or there's nothing, no record for the court to vote on, whether you go for or
1959 against it.

1960 So that's what I'm saying in the procedural motion, I wouldn't overly complicate it and think it's a
1961 big legal decision. I think it's your call to look at your ordinance and say do you think this GPA
1962 is duplicitous and, therefore, you're subject to the one-year timeout, and he's a month too early.
1963 Or two, you think Judge Crockett's decision or your own policy or both require a Major
1964 Modification and he doesn't have one, so he's incomplete. I think it's a pretty simple call.

1965

1966 **MAYOR GOODMAN**

1967 Okay. There's a motion then. Please vote and please post. Councilwoman, Councilwoman your
1968 vote?

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1969 **COUNCILWOMAN FIORE**
1970 It's, look.
1971
1972 **MAYOR GOODMAN**
1973 Oh.
1974
1975 **COUNCILWOMAN FIORE**
1976 My - computer is broken.
1977
1978 **COUNCILMAN CREAR**
1979 Should we withdraw the vote?
1980
1981 **COUNCILWOMAN FIORE**
1982 Should we withdraw the vote?
1983
1984 **COUNCILWOMAN TARKANIAN**
1985 Well, tell her.
1986
1987 **COUNCILMAN COFFIN**
1988 It didn't register the vote.
1989
1990 **COUNCILWOMAN FIORE**
1991 Here. Now it's just left.
1992
1993 **COUNCILMAN COFFIN**
1994 Now it's, now it's voted.
1995
1996 **COUNCILWOMAN FIORE**
1997 No, I didn't (inaudible)

Page 70 of 74

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**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

1998 **MAYOR GOODMAN**
1999 Give her an oral.
2000
2001 **COUNCILWOMAN TARKANIAN**
2002 You can give her your vote orally.
2003
2004 **MAYOR GOODMAN**
2005 I - voted. Give your vote orally.
2006
2007 **COUNCILWOMAN FIORE**
2008 Are you getting it? Nay.
2009
2010 **LUANN D. HOLMES**
2011 Nay?
2012
2013 **COUNCILWOMAN FIORE**
2014 Nay.
2015
2016 **MAYOR GOODMAN**
2017 Okay. The motion passes.
2018
2019 **COUNCILMAN COFFIN**
2020 Post? You gotta post it.
2021
2022 **MAYOR GOODMAN**
2023 And it's posted.
2024
2025 **COUNCILMAN CREAR**
2026 No, hold on. Hold on. It's got the wrong vote for me. It says I hit, I voted nay. I voted yes.

Page 71 of 74

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CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

2027 **LUANN D. HOLMES**
2028 It says you voted nay.
2029
2030 **COUNCILMAN CREAR**
2031 No.
2032
2033 **MAYOR GOODMAN**
2034 Right, he says he votes yes. So he needs the change. It passes anyway.
2035
2036 **COUNCILMAN COFFIN**
2037 It passed.
2038
2039 **COUNCILMAN CREAR**
2040 Then let's record it right. Accurate.
2041
2042 **COUNCILMAN COFFIN**
2043 Wanna revote?
2044
2045 **COUNCILWOMAN TARKANIAN**
2046 He wants a green check.
2047
2048 **COUNCILMAN CREAR**
2049 Where do you do that?
2050
2051 **LUANN D. HOLMES**
2052 So Councilman Crear? For the record, if you'd like us to reflect your vote voted in favor of the
2053 strike, we'll do that for the record.

CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83

2054 **COUNCILMAN CREAR**

2055 Great. How does, what's that procedure that, does that happen now? You – show it again, or-
2056

2057 **LUANN D. HOLMES**

2058 No, for the minute record we'll change it to show that orally you want us to reflect that you voted
2059 in favor to strike it.

2060

2061 **COUNCILMAN CREAR**

2062 Yes, I voted in favor to strike it.

2063

2064 **BRAD JERBIC**

2065 For the record, it's a 4-3 vote to strike the item from the agenda, so the item is stricken, and it's
2066 on to the next order of business.

2067

2068 **MAYOR GOODMAN**

2069 Okay.

2070

2071 **COUNCILMAN CREAR**

2072 No, no, no. Hold on, hold on, hold on, hold on, hold on. Point of clarification. It's not a-
2073

2074 **BRAD JERBIC**

2075 5-2, I'm sorry. It's 5-2.

2076

2077 **COUNCILMAN CREAR**

2078 It's not a 4-3 vote.

2079

2080 **BRAD JERBIC**

2081 Yeah, 5-2, I'm sorry. My mistake.

**CITY COUNCIL MEETING OF
MAY 16, 2018
VERBATIM TRANSCRIPT – AGENDA ITEMS 71 AND 74-83**

2082 **MAYOR GOODMAN**

2083 It's 5-2 vote. (The motion to Strike passed with Mayor Goodman and Councilwoman Fiore
2084 voting No).

2085

2086 **COUNCILMAN CREAR**

2087 Thank you.

Exhibit 136

Transcription of Recorded Homeowners Association Meeting

9101 Alta Drive

Case:

180 Land Company, LLC, et al. v. City of Las Vegas, et al.
A-17-758528-J

Date:

06/21/2018



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TRANSCRIPTION OF AUDIO RECORDED

9101 Alta Drive HOA Meeting

Steve Seroka, Main Speaker

June 21, 2018

In Re: 180 Land Company, LLC, et. al.

V.

City of Las Vegas, et. al.

Cause No: A-17-758528

RECORDED BY ELECTRONIC SOUND RECORDING;
TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE

Transcribed by: Carmelita E. Lee
Certified Electronic Transcriber
Certificate No. CET**D-499

1 Transcription of Audio Recording of June 21, 2018

2

3

4

HOA MEETING

5

6

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8

9

10

11

12

13

14

Thank you.

15

COUNCILMAN SEROKA: Thank you.

16

Is it okay if I take this off here?

17

CHAIR: Yes.

18

19

COUNCILMAN SEROKA: If that's okay, I would like to get everybody in on it.

20

21

22

23

24

25

Steve Seroka. I'm your neighbor up the street here off of Alta, and I'm your city councilman. If you don't know that, you should by now. It's funny, I go places and people stop me and I introduce myself, and they say, I know who you are.

But I'll give you an update. Last time I

1 came and spoke to you I was -- we were just shy of the
2 May 16th city council meeting where there were ten
3 issues regarding the -- ten items regarding development
4 on the formerly Badlands Golf Course out here. And then
5 we had a city council meeting, and I wanted to give you
6 an update on that.

7 But before I did, I wanted to take the
8 opportunity to share a little bit about the other things
9 that have been going on. This week I flew into
10 Washington DC and came back Tuesday night in order to
11 make the council meeting yesterday.

12 I went to Washington DC, I was invited
13 there by an organization called the U.S. Global
14 Coalition. I'm considered a State of Nevada advisory
15 board member on that coalition, and what it is about is
16 about the United States' influence around the world, our
17 role as a global leader. And it is primarily focused on
18 budget items.

19 One of the items that they are concerned
20 about is the international affairs budget that deals
21 with all of our diplomats and all of our international
22 aid. It is a very small part of our budget. It is
23 about 1 percent, and what it does is, it prevents us
24 from going (inaudible.) It has been a target of
25 reduction over the last series of years, and so they

1 call people in and they like the perspective of a
2 military person talking about the value of smart soft
3 power of America around the globe versus hard military
4 power. And I would have the opportunity to spend Monday
5 hearing national leaders such as Madeleine Albright,
6 former Secretary of State; Chris Christy, presidential
7 candidate; Howard Dean, presidential candidate; the Vice
8 Chairman of the Joint Chiefs of Staff; CEOs of a lot of
9 our nongovernmental organizations, who were sharing with
10 us what is happening in the globe, and how our actions,
11 when we decide not to lead, who is filling in.

12 And I'll be sharing with you a bit of
13 information that I did not know; is that our \$60 billion
14 is pennies on the dollar relative to our 6 to 700
15 billion defense budget that we have.

16 The Vice Chairman of the Joint Chiefs of
17 Staff, he is a fellow Air Force Academy graduate, and he
18 shared, "If you called me in to do the job, I am going
19 to make things worse before I make them better. We
20 would much rather have the soft power, the diplomatic
21 effort to develop (indiscernible) and make things better
22 so that we never have to make that choice."

23 And then you heard the Secretary of State
24 speak up, "When we have peace and stability around the
25 world, it helps trade. It helps international trade."

1 Which comes right back to Nevada. It gives us our
2 tourism. It gives us our international investment here.
3 It helps us right at home.

4 So then we had a team of five of us go
5 talk to our U.S. Senators and our Congressmen, so I got
6 to speak to Senator Catherine Cortez Masto and her
7 staff, and some of our congressional delegations. And
8 it was a great experience and we had folks from Northern
9 Nevada and Southern Nevada on the team. We were very
10 successful in that area, and I think that was an
11 important thing to talk about.

12 As well, yesterday, the city council, we
13 had two pet ordinances that came forward. All of us
14 care about humane treatment of our animals. Previously
15 we had stopped a ban that would have shut down two of
16 our pet stores in town, that said only dogs coming from
17 shelters are from shelters [sic.] That assumed that our
18 shelters were perfect, and that assumed that we didn't
19 have any other way to prevent healthy animals from
20 coming into our community.

21 But we put guidelines in place that passed
22 yesterday that will strengthen our ability to control
23 the inflow of animals into our community, as well as
24 provide some revenue to have people enforce those rules
25 now. We have been contacted by people from other states

1 saying you in Las Vegas are now the national leader in
2 that area.

3 When I was in Washington DC I was able to
4 talk to our senators, and we have -- we went to one
5 Senator's office and one Congressional office about
6 support to help us with the USDA rules to help support
7 the humane treatment of animals through their rules.
8 Because there are challenges within their rules that
9 make it hard on all of this. As well as we are going to
10 be working with our state delegation along those lines.

11 The number one source of puppy mill
12 animals in our community is the airport. Studies show
13 that you can eliminate all of the puppy mills in the
14 United States of America, yet you would have a puppy
15 mill problem because they come from overseas. So we are
16 working with the county to work with the airport to find
17 a way to regulate the flow of animals that have been
18 sold to people in our community here. So it is a -- it
19 is going to take a large effort, but we made a first
20 step that people in the nation said you are the first,
21 and people didn't think we would get it through here,
22 but we had an agreement from our animal welfare people
23 and animal activists, as well as our business owners
24 here in town, and we were successful yesterday. So that
25 was a big win for our community.

1 On May 16th we had two items come up. One
2 of the items was relative to new policy in our
3 development rules in our community. You heard me speak
4 previously that one of the challenges with the
5 development, such as developing the Badlands, is we had
6 no rules for developing inside of a completed master
7 planned community. All of our rules are in place for
8 developing a pristine land, as Las Vegas was growing in
9 an outward direction.

10 Now we are looking at development on the
11 inside, and we didn't have any rules, so it left a lot
12 of questions out there. So we did, back in September,
13 we directed -- I directed the staff to look at
14 developing some rules to help that situation, and now on
15 May 16th we approved the first part of two.

16 I'll share with you that we made that
17 directive, and down in Henderson, they heard what we
18 did, and they liked what we were doing, they took our
19 idea, they made it better, they approved it already, and
20 actually resolved their Legacy Golf Course issue as part
21 of that process, and we now are just getting, in Las
22 Vegas, we are a little bit slower, because they are
23 already done, and we just got part one of two parts
24 approved on May 16th.

25 All of that part of the policy said is if

1 you are going to develop -- I'll just say this short.
2 If you are going to develop in somebody's back yard, you
3 need to talk to them, and then put it in a report what
4 you heard and what you are going to do about it, so when
5 you come to city council, all of this consternation is
6 documented.

7 That's all. And we approved that.

8 And that is one of the -- around the
9 country, that is step one across the country. A
10 successful legislation, as well as successful
11 development in a completed master planned community.

12 Part two will be a little bit harder. It
13 is going to say, okay, if you are going to develop
14 inside of a master planned community, go talk to the
15 community, and here are some guidelines to follow.

16 And there are about ten guidelines that
17 have been successful across our nation. This is such a
18 common problem, there are thesis papers written on this.
19 We are not unique in this. The solutions are out there.
20 Generally the solutions say something like this. If you
21 are going to develop where nothing was previously
22 expected to be developed -- and there is a way to define
23 that -- bring your new development to part of that plan
24 and change as much green space used as possible.
25 Maintain public walk space so that people that

1 previously used that can continue to use it, and then
2 put your infrastructure in the spot in a way that it
3 improves the quality of that community.

4 I told you the last time that I was here
5 that we had flown in an expert to look at our situation
6 here, and that is what he does around the country. And
7 we are continuing to work with him, and with some golf
8 course people, because in addition, what they
9 recommended is, when you do create that kind of green
10 space, if there is a revenue-producing business in place
11 at the time, to make that into something like a park or
12 executive golf course, but not a (indiscernible.)

13 And that has been the recommended solution
14 of successful communities around the nation. Texas,
15 Florida, California are all ahead of us. Phoenix has
16 had some high, high end, very high end, expensive homes
17 and communities in this situation, and they resolved it
18 this way. Palo Alto, California, they have had some
19 challenges and resolved it in the same way.

20 So those are the kinds of things that will
21 likely be, I don't know, in part two of the open space
22 amendment -- policy amendment that will be coming
23 forward. We don't have the final word on that. But
24 that is important because in Ward 2, we doubled the
25 acreage of any other ward in the city of Las Vegas that

1 could be affected by this policy. Think about that.

2 Ward 2 alone.

3 There are thousands and thousands of acres
4 in the city of Las Vegas that could be affected by this
5 open space development, yet this ward, right in our
6 area, a stone's throw from here, we have thousands of
7 acres, which is double any other ward in the city of Las
8 Vegas. Let's compare that to Ward 6 in the northwest,
9 which is very open. We have nearly five times the
10 acreage of Ward 6 that could be affected by this open
11 space.

12 So is it important for Ward 2 and our
13 community? Yes. We have all the golf courses in our
14 community that could be affected. The lakes, the
15 lake -- the lake and the lakes is of the same land use
16 and zoning category as here. So think about that.

17 When we are talking about these open
18 spaces, we are not talking Badlands, we are talking the
19 city of Las Vegas, and a lot of it in Ward 2. So it
20 makes sense for me to leave that open so that we can
21 move forward. So that is here for our community.

22 What happened on our May 16th council
23 meeting? On the May 16th council meeting, after I came
24 in, I shared with you that we were having ten items.
25 Many of you had some really strong comments about it.

1 We just had a lawsuit, didn't we? How come it is on the
2 agenda? Doesn't this apply? And some other very
3 relevant comments.

4 What I didn't share with you at the time
5 is I had been having that conversation inside of the
6 staff for months. But I also didn't share with you that
7 as of May 16th, I have now had three swings at the plate
8 regarding Badlands. August 2nd, with the development
9 agreement, that had -- liked to have a development
10 agreement, but it didn't go through the process, and we
11 didn't have it, the right process in place, and we
12 didn't have the level of detail in there to make it a
13 good contract for the city or the community.

14 We could improve on it. There was a lot
15 of good things on it but there was not a good contract
16 at the time, so we said no. We haven't gotten another
17 development agreement back.

18 In January, my second swing, there were
19 these same ten items on the agenda, and we said, hey,
20 this is such a highly contentious issue, we want the
21 council to be full. We want there to be all seven
22 votes, and there was a vacancy in Ward 5. At the time
23 we said okay, let's just delay this so we get the full
24 council to vote, and we will delay the vote until 30
25 days after the new council person is elected in August.

1 So we did that.

2 That was my second swing. And the third
3 swing was on May 16th.

4 At the council meeting, at the council
5 prep meeting for the January meeting where we delayed,
6 we voted to delay, I had a lot of questions for the
7 staff that many of you have. I asked them all of the
8 questions you asked. And more. And they didn't have
9 any answers. And I said well, then, tomorrow, if we
10 don't delay this item, I am going to have a lot to say,
11 and it is going to be ugly.

12 We delayed it, and the staff came to me
13 and said, councilman, we would like to talk to you about
14 your concern about the 12 issues you brought up. I said
15 thank you, let's talk about that.

16 What I thought was, when I said that at
17 the meeting, the purpose of the meeting was to present
18 me or tell me how wrong I was on all of the items, so I
19 was -- then I got to the point where I was asking
20 questions. And I said, you know, when we have been
21 briefing all of these other items, the staff has
22 recommended denial on them, but on Badlands, we are
23 recommending approval on it. Why? Why? And when they
24 gave me the answer, I would say, well, that doesn't
25 sound right, how about this, this and this? There

1 wasn't an answer.

2 They said maybe we will have to get a city
3 attorney to rule on that. The city attorney thought it
4 was (indiscernible) and I said, hey, I didn't get any
5 answers.

6 As a result of that January meeting, I
7 went to school, because I wasn't getting the answers,
8 and like all of you, it didn't feel right, sound right,
9 taste right, but we were hearing it as it was going on.
10 So I went to school and I studied and studied the rules,
11 and I learned as much as I could from the experts, and I
12 did study and I learned a lot.

13 So on May 16, at the beginning of the
14 meeting, when it came time for the administration
15 portion of the meeting, I said I have a procedural
16 motion I would like to make, and my motion was this:
17 All ten items that are related to Badlands, I
18 recommended that we -- I moved that we strike all of
19 them from the agenda today and remove them. And I had
20 three reasons. It is against our law. It is against --
21 it is inside the 12-month required cooling off period
22 for a previous denial of the same thing, and we have a
23 judge's ruling that says not to do this.

24 Let me explain it first.

25 So what I did was I started reading out of

1 the NRS. I provided Supreme Court cases that supported
2 that, and I started reading out of our city policy or
3 city law, verbatim, and explained some of what the items
4 were, and I made clarification on the 12-month cooling
5 off policy to make it clear to everyone, and then I read
6 right out of the judge's ruling that says you can't --
7 the city attorney cannot interpret the rules in favor of
8 the decision they were trying to make. The rules are
9 the rules; the law is the law.

10 And I said I move to strike all of these
11 items, and we had a two-hour discussion on whether we
12 wanted to follow the law. The discussion was purely
13 procedural and it had nothing to do with the
14 (indiscernible.)

15 At the end of that, we made the motion,
16 and the motion -- the vote came out 5 to 2 in favor of
17 following the law. And all it said was follow the
18 process, follow the law, and we will go from there, and
19 then we are not doing anything wrong.

20 It's interesting, though. I tell people
21 we had to have a vote as to whether or not we were going
22 to follow the law. Think about that. Because I have
23 been thinking about it a lot, and it bothers me. If
24 somebody comments that people make, you didn't tell me
25 you were going to do that. Now, I wasn't responding

1 back to (indiscernible.) My thought was why would I be
2 telling you to follow the law? Why did it take a
3 councilman who has been in office for 12 months to
4 research the law, and then tell you what the law is? I
5 am kind of concerned about that.

6 So what that means is right now, the
7 12-month cooling off period ends today because it was
8 June 21st of last year when there was a motion, I
9 believe it was Bob Beers that moved to deny, and the
10 motion carried.

11 And so there was a denial on June 21st of
12 last year. That was the day that the election was
13 certified, and I was in the office to see my election
14 results certified that made me a councilman for this
15 area.

16 So that means that no application for a
17 general plan amendment could come in, should have ever
18 come until before today. So all of those items that
19 were on the agenda before now had to be taken off
20 because they never should have been accepted. So moving
21 forward, the general plan amendments are received on a
22 quarterly basis, so the next application period would be
23 August, so an application can be put in in August, and
24 it can be heard in October, and likely heard at city
25 council in November. Until then, no application for a

1 similar type of environment, similar type of requests
2 can be received by the city. So we have that
3 established.

4 The first part of my research, what I
5 understand now, first of all, CC&R's have nothing to do
6 with city council. This -- when we hear about this for
7 short-term rentals and all of that, city council does
8 not enforce CC&Rs. That is an HOA role.

9 So say somebody wanted to make a
10 short-term rental here, you have a rule that says no
11 short-term rentals are allowed. They came before the
12 city council and we approved it because we don't see --
13 we are not allowed to rule on your short-term rental or
14 your CC&Rs in that regard.

15 You would then have to hire an attorney to
16 take that person into court. Does that make sense? So
17 the city council does not enforce CC&Rs.

18 What we do do is land use and zoning.
19 What I learned through the research, and I can now
20 follow, is documented clearly from A to Z, clearly
21 documented what has happened in this area. I know when
22 I talked to people about it at the city and other
23 places, they say, well, this is how it started, because
24 it gets real confusing in here, and then this is how it
25 comes out.

1 And I said, well, tell me about this real
2 confusing part. They say ah, it's confusing, and you
3 wouldn't understand it. I go what are you talking
4 about? Well, I don't know if it was confusing, it might
5 have been that they didn't understand it, or now that I
6 do understand it, what it says is, it is very clear that
7 the land formally known as the Badlands Golf Course is
8 the agreed upon, approved, documented, required by the
9 city open space and recreational area for this part of
10 the city of Las Vegas. Far beyond that, far beyond
11 Queensridge.

12 What that means is, back in the day when
13 this area was being developed, it was put forth and the
14 city said, well, tell us where your open space and your
15 recreation is going to be, and they said, see this land
16 that is a flood zone? See this land that is marshland?
17 It is called -- it is called wetlands now, even though
18 it is not wet all of the time -- it is federally
19 protected. We are going to use that as our required
20 open space. We will make it a golf course, so we will
21 get two for one. It is a recreational space as well.
22 It is documented, and it is written down.

23 So when they built over there off of
24 Hualapai and Sierra -- Sahara -- this land is the open
25 space. Every item that was built along Hualapai and

1 Sahara, this is the open space. Every community that
2 was built around here, that is the open space.

3 The development across the street, across
4 Rampart, that is the open space. It is documented, it
5 is designated. You can track it through the system,
6 when there was change, and there were all of the three
7 letter identifiers that our city planners have used over
8 the years.

9 The result has been -- it is also
10 documented as part recreation, open space. It is green
11 on the map, and there has been statements that say, oh,
12 that was just thrown in on the map. It is clearly
13 documented, even the process is outlined in documents
14 that are signed and approved by the city. That is part
15 recreation and open space.

16 What does that mean? What it means is
17 park recreation and open space is zero entitlements. It
18 doesn't even say zero, it says not applicable. Not
19 applicable. When it is park, recreation, open space,
20 development is not applicable. Underneath that zone,
21 when it is zoned RPD 7, that is a residential plan
22 development district.

23 We don't do that any more, they changed
24 the rules. So when you look at an RPD district, it says
25 RPD 7. In an RPD 7 area, you can get up to seven units

1 per acre over all. And part of that is you have a
2 requirement for open space and recreational space, like
3 I said.

4 So when you have an RPD district, there is
5 a plan, and in that plan it outlines whatever area of
6 that acreage is going to be. You have a plan formally
7 known as -- a golf course known as Badlands, is drainage
8 and golf course. As I say, it is a required open space,
9 it is a required recreational space.

10 At that time, it was generally accepted
11 accounting principals and generally accepted percentage
12 of acreage that is open space/recreational. It is 20
13 percent. What we have up here is the agreed upon
14 roughly 20 percent. It's in the ballpark.

15 So we were going to change this into a
16 developmental land at this point. It would be like
17 Scott Canyon (phonetic) that is going up in the
18 northwest, where they have required open space, they
19 have required plots. It would be similar to, then once
20 that community has completed that, then the city council
21 is approached, and the city council would vote to, now
22 that it is completed, that park that you built your
23 house on, we are not going to build in that park. That
24 is the park for this area.

25 So is there a process to build through and

1 have that requested? Absolutely. Judge Crockett
2 outlined that in the lawsuit where he said the city
3 violated the law and overturned the 435 (indiscernible)
4 because you didn't follow the process that the city has.
5 Here is the process, follow it if you want to do it.

6 So there is a process to do that. It is
7 procedural. And then you would have the context for the
8 city council to judge whether they would like to approve
9 development. And that goes back to what is the
10 recommended solution around the country.

11 If you are going to do that, if there is
12 no requirement to, there is absolutely no reason for the
13 city council to say yes in that case, because the city
14 has already said that is a recreational space, that is
15 the open space. That goes back to all of these
16 successful concepts around the nation, is a concentrated
17 small development and a small part, usually multi
18 dwelling, very beautiful, multi towered kind of thing
19 like this, in a very small place. And the rest is open.
20 It is generally the solution around the country. That
21 doesn't mean that is a solution here but I am just
22 sharing with you.

23 Now that we have the documentation clear,
24 that is open space for this part of our community. It
25 is the recreation space for this part of it. It is not

1 me, it is what the law says. It is what the contracts
2 say between the city and the community, and that is what
3 you all are living on right now.

4 There is a way to go forward. In the
5 meantime, I just wanted to share that the city has
6 approximately ten lawsuits against it filed by the
7 developer. One of those lawsuits I mentioned includes
8 myself and Councilman Kaufman by name. We were being
9 sued in a federal case. The other cases are claiming
10 other things like inverse condemnation, people are
11 biased and the city is breaking its rules. Judge
12 Crockett has already said the city broke its rules.

13 When you follow the rules, you get sued as
14 well. The city got sued after this last one.

15 So what is going to happen with those
16 lawsuits? Well, the city has a litigator. The city has
17 a team. But in addition, because there are so many, and
18 because they are so intense, and because the talent of
19 the firms that are representing the developer, and the
20 best inverse condemnation lawyer in the State of Nevada
21 on their team, and they have the Lieutenant Governor of
22 the State of Nevada on their team. You want to make
23 sure that the city, if you are a physical conservative,
24 you would want the best team to prevent further
25 financial liability down the road.

1 So yesterday we approved it, and if it
2 goes over \$50,000 for outside counsel, we have to ask
3 for city council approval to help the city pay for that
4 outside litigation.

5 The value of that outside litigation is
6 this: I don't just hire one person with that money, we
7 get the entire firm with that money. In addition, it
8 wouldn't make sense to hire an additional litigator on
9 full-time staff. Any business person knows that when
10 you have a peak in demand, you don't hire a full-time
11 person with full-time benefits in a potential retirement
12 that you have to tag on to the end of that. No, that's
13 when you contract out for a temporary peak in power, a
14 peak in demand.

15 So we have at this time a peak in demand,
16 so we have to hire outside counsel. But then it doesn't
17 meet conflict of interest and it doesn't have any
18 conflict of interest.

19 So what is happening between now and
20 October, it appears, will be the litigating award. The
21 litigating work, and the developer is suing the judge
22 that ruled against him, he is suing the city council
23 people, two of them, there were five, so why are only
24 two being singled out? I don't know. There are --
25 there are complaints filed that have been dismissed. So

1 there is a lot of behind the scenes, but all it takes is
2 people talking.

3 The solution is to talk. And there has
4 been talk about a land swap. And if you remember during
5 the campaign, my predecessor said the only solution to
6 this problem is to give the developer anything and
7 everything he asked for, otherwise it is an inverse
8 condemnation law suit. By the way, we can show, I can
9 show, and I'm not even an attorney, I can show you that
10 there are no development entitlements on the land. So
11 by not letting somebody use nothing, how do you prevent
12 them from doing -- there is no dollar value to the loss
13 of use of those entitlements because there are no
14 entitlements. I can show you that we didn't prevent any
15 use of any entitlements.

16 So these condemnation lawsuits don't make
17 any sense unless somebody doesn't understand the law,
18 and that could be the hope of ten lawsuits. Because
19 maybe you get 10 different judges with ten different
20 interpretations. But anybody that understands the
21 language will understand that there are no entitlements
22 and there are no real condemnation lawsuits. That would
23 be that.

24 But my predecessor said inverse
25 condemnation. I bring that up because during the

1 campaign, I said, well, let me just show you that's not
2 the case here; we could do a land swap. It is possible.
3 So it is not the only solution, there are plenty of
4 solutions, and this is just one.

5 Well, now there has been a little bit of
6 discussion about a land swap. And I thought about that
7 a second and I said wait a minute. This land was a
8 profitable, fully functioning business when it was
9 purchased. I don't know if you knew this, but it was
10 profitable. It was making money as a golf course. It
11 just wasn't making a lot.

12 Since then, it is no longer -- I guess you
13 could say that it is a business that was run into the
14 ground. So in essence, that means to me -- I am not a
15 lawyer, I am not a business person -- that the land
16 there is worth less now than it was when it was
17 purchased. And when you run a business into the ground,
18 you cannot claim financial hardship because it is your
19 own doing.

20 So we have a property that was a fully
21 functioning, profitable business that was bought, it is
22 no longer that, and it has less value. So what are you
23 going to swap it for? It was appraised at 3.9 million
24 and purchased for 7 and a half million. So what are you
25 going to swap it for? Do you swap it for the equivalent

1 acreage? That doesn't sound right. It is not -- it is
2 open space, it is a drainage. It is a natural arroyo
3 that the master plan of 2020 for the city of Las Vegas
4 says we will preserve natural arroyos. We will preserve
5 natural terrain.

6 This is our approved ordinance that says
7 we will do that, and that is what we have done. So what
8 do you swap it for? It was suggested that we swap it
9 with a different developer who would maybe -- their
10 words, not mine -- be more cooperative. And I said
11 well, first of all, wait a minute. We didn't solve any
12 of the underlying development issues by doing that. Why
13 would another developer want that? Second, what would
14 we swap it for? Because my concern would be swapping an
15 old Volkswagen Beetle for a beautiful Mercedes
16 convertible. What do you suppose, dollar for dollar?
17 Not acre for acre. That doesn't make sense.

18 The bottom line is, that is the open space
19 required and agreed upon by the city of Las Vegas,
20 documented, and carried all the way through to today,
21 that you live on.

22 And I'm just here to represent you and
23 carry your message as best I can, with your help,
24 whatever that is, whatever way it is, so I hope that I
25 have done that for Ward 2 in this part of the community.

1 It is a challenge. That is what I signed up for. It is
2 hard work, and I signed up for that.

3 And I'll tell you this. Some people say
4 it is the rich versus the not rich, and I say it is the
5 right versus the wrong. And I signed up for that a long
6 time ago.

7 My door is wide open to talk to people.
8 It always has been. I have invited them to my office.
9 I have invited them anywhere to speak to me to work it
10 out. I am happy to do that today as well.

11 I have no animosity. I just want the best
12 for our community, Ward 2, and the city of Las Vegas.
13 And in 20 years, when I am running around the community,
14 I want to say whatever we did here, there, will be
15 because I had something good to do with it. It is not
16 like giving somebody a license and pulling it back.
17 When you give somebody approval to build, it is there
18 forever. We just want to make sure we do it the right
19 way, so.

20 CHAIR: Do we have any questions?

21 MEMBER: I want to make a statement. You
22 know, many of you have been following (inaudible) and
23 related issues. But the scene has been a tiredness.
24 It's hard work. Community (indiscernible) and it wasn't
25 about no entitlements or entitlements. It was about

1 what's right and what the law says. What are you going
2 to find out? Any plan or time or energy, there has been
3 a tremendous amount of abuse, verbal abuse, attacks,
4 lawsuits, and questions. It is the opposite of
5 (indiscernible.) Thank you.

6 And so I would first like to tell Steve
7 how much we appreciate the fact that he put the time,
8 the effort, the commitment, and he has not exactly the
9 highest paying job. In fact, I would say on the
10 (indiscernible) that Steve makes a lot less. It's the
11 lowest paying job in Las Vegas. And this is an
12 honorable man and he doesn't deserve to be treated the
13 way some people have treated him.

14 I never went to Steve and said, listen, I
15 am against the project and I want you to stop it. I
16 said Steven, I want you to do the right thing, and by
17 doing the right thing, we will support you and we will
18 find others to support you. And I have to tell you, a
19 lot of people don't support anybody because they haven't
20 been there.

21 And here is a man who deserves our
22 support. I can tell you.

23 (Applause.)

24 MEMBER: Have you ever had an update on the
25 property to the west of IDB?

1 COUNCILMAN SEROKA: Yes, I am happy to do that.
2 I did speak with the folks from IDB, an Israeli
3 Development, and they own the property just to the west
4 of here, the third tower property. They also have the
5 rights to the property over to the village, and they
6 have the rights to build on the north end of the Tivoli
7 building.

8 They are exploring. They are exploring
9 the possibility of developing what they have already
10 approved, a 166 unit tower over here on the west. They
11 were just kind of throwing that out here and they came
12 talk to the neighbors, go talk to the neighbors, go talk
13 to them and find out what's going on. So if they do
14 that, hopefully you all can work things out because it
15 is always a challenge.

16 And across the street, on the north end of
17 Tivoli, they have entitlements for 300 units to build.
18 I think there is 10-story building that is part of that,
19 and there is some road work that will need to be done as
20 a part of that, but they were talking about the golf
21 course, to make sure that was all square. And the
22 roadwork that needs to be done would actually help the
23 flow of traffic in and out of the golf course. They
24 would have to, and they previously agreed, so we are
25 optimistic that should that happen it would still be in

1 place, and to pull in and out to park right across the
2 street, that will take you right into the golf course or
3 into Tivoli Village or whatever it is called, the Towers
4 or whatever it is. So that is the update.

5 You may be hearing more about that as you
6 go forward. I don't know the current status but they
7 were very interested and will take right now to
8 (inaudible.)

9 MEMBER: (Inaudible comments.)

10 COUNCILMAN SEROKA: Just so you know, the
11 entitlements for the tower, the third tower here, were
12 renewed for two years, so they -- in September. So
13 there is about 18 months left for them to decide if they
14 are going to build or if they have to come back and ask
15 them for another extension.

16 MEMBER: I have a question. I mean, there is
17 much expansion going on in Las Vegas, and Lake Mead is
18 down two-thirds right now. What are the long-term plans
19 for finding water with reference to Las Vegas expansion?
20 This is a very big issue.

21 COUNCILMAN SEROKA: Great question. Great
22 question. I really like that question because that is a
23 question that I had as well. It was written up in the
24 paper recently. I don't know if you saw it, about the
25 water report. As part of coming into office, I did get

1 invited by the Water Board to go talk to them. By the
2 way, there is a huge reservoir right over here
3 underground, and it has actually been part of the
4 controversy or the challenge for any developer to
5 develop in here because they would need access and they
6 would have to do some work there and the water
7 authorities have been involved with that.

8 What is wonderful about our community,
9 again, we are a leader in the nation. Our Las Vegas
10 valley here is a leader in the nation for returning
11 water and managing our water credits better than anyone
12 else in the nation. It is far -- you know, we have
13 heard that back in the day when they decided what the
14 percentage of the water usage could be for Colorado or
15 Arizona or California or Las Vegas, our population was
16 so small we got a really tiny part of it. So we have
17 only a few credits relative to everybody else, yet we
18 are so efficient with our credits, we sell our credits
19 to California and Arizona. Because every bit of water
20 that goes down the drain gets recycled and gets put
21 right back into the loop. That is why when you drain
22 your pools, if you have a pool here, if you don't have
23 your own pool maybe you have people who do that, but if
24 you drain your pool, you are required to put that
25 drainage of that pool into the sewer system, not on your

1 yard and not on your grass. So anytime you are using
2 water, you need to put it back in the system. That is
3 why our hotels, everything is 100 percent. We are
4 wasting our water; we are recycling and putting it right
5 back.

6 The only place our water is not recycled
7 is when we use it to water our grass. We water our golf
8 course, but a lot of that is well water, but it doesn't
9 go back into the system. So we are extremely efficient.

10 So when the paper said -- what the water
11 authority reported in the paper, even with all of the
12 potential growth, with expanding the county by over 40
13 acres, even if we developed that, we would be well
14 within our credits. Now, what they didn't say is, and
15 we may not be able to sell as much in California or
16 Arizona, but we are well within our usage here. And
17 that is a great question, and it did raise our water
18 prices this year, so.

19 Sir, did you have a question?

20 Well, I do appreciate your time, and
21 please reach out to me at any time with comments and
22 concerns, pluses or minuses. You and I, we can work
23 together on anything I believe, and we can make things
24 work out for the best of the community, and please,
25 truly, I am just here to represent you. It is not about

1 me. It really is not about me.

2 Thank you very much.

3 CHAIR: Thank you very much.

4 (Applause.)

5 CHAIR: So we are going to resume our annual
6 report meeting.

7 I would like a call to order. Do I have a
8 motion?

9 MEMBER: So moved.

10 (Motion is seconded.)

11 CHAIR: All in favor say aye.

12 (A chorus of ayes.)

13 CHAIR: We do have a meeting.

14 (Inaudible.)

15 (Motion is seconded.)

16 CHAIR: All in favor, say aye.

17 (A chorus of ayes.)

18 CHAIR: Now we move to the main subject of our
19 meeting. I have a couple of bullets, and that is our
20 financial report, and the underlying research that is
21 done. I'll turn it over to Ted.

22 BOARD MEMBER: All right. The first thing we
23 will discuss is the most recent financial statement.
24 The most recent financial statement available is for the
25 eight-month period ended April 30th. This statement

1 shows that we have cash available in our operating
2 account of \$684,500 versus -- for an account total of
3 \$256,500.

4 The accounts receivable as of that date
5 amounted to \$24,800, which is basically the unbilled
6 utility billings to the unit owners. That means our
7 current working capital of that day was \$452,800.

8 The current financial statement shows that
9 we are operating in an excess of revenues over expenses
10 of \$184,900 for the eight-month period of time. This is
11 primarily due to two factors; first, the payrolls are
12 \$122,000 under budget due to employment changes made
13 basically by Bobby and Marva, and several other people
14 who were not immediately replaced, and when they were,
15 at much lower salaries. This also portends several
16 similar changes in both housekeeping and security.
17 Along with these wage reductions came a savings in
18 payroll taxes and employee benefit costs.

19 The other main trend that is lower are the
20 utility costs that we are experiencing. This is a
21 combination of both the replacement of all of the light
22 bulbs with more efficient ones, and the ones where we
23 are running out of the HVA systems. This reduction
24 resulted in the savings of \$61,700 for the eight-month
25 period.

1 We have rejected out what we believe to be
2 the total excess budget cash for the current year and we
3 believe that it will be somewhere around \$110,000 for
4 the year.

5 The costs for next year, we have the large
6 weed (phonetic) program bill of \$150,000. The board has
7 decided to bring into the current year \$100,000 of that
8 expense, thereby savings each unit owner in the current
9 of \$38.05 per month from next years' proposed budget
10 assessment. This was done because of the requirements
11 that the board present and approve a balanced budget
12 each and every year.

13 The April 30th financial statement is
14 currently available for your review in the HOA office,
15 and as usual, I'll be happy to answer any questions and
16 meet with anybody that has any questions pertaining to
17 that.

18 That's it.

19 The next item I think is, Ken, do you want
20 to bring this up, put this out? The ratification of the
21 board approved expenses?

22 BOARD MEMBER: Sure.

23 Behind tab number -- they are behind tab
24 No. 3, probably behind the first page divider. These
25 are ratified, for the board to ratify their approved

1 expenses.

2 The first one was the improvement and
3 renovation of the network system in the building for the
4 wifi. That is from the reserves of \$92,724.58.

5 You've got roof repairs from tower 2 of
6 \$5619.72. That came from the construction defect
7 account.

8 The main lobby front door operators,
9 \$64,517. That would be a reserve item.

10 Fire light safety system repairs of
11 \$6,940. That came from operations.

12 And the microphone system that we don't
13 have in place yet, but we will by the next board
14 meeting, is \$8,750.96 from the reserves.

15 And last item was ten year window washing
16 testing for \$9,750 from operations.

17 BOARD MEMBER: Thanks, Ken.

18 I move that the board ratify the
19 aforementioned expenses.

20 (The motion was seconded.)

21 CHAIR: All in favor say aye.

22 (A chorus of ayes.)

23 CHAIR: So we will move to the reserve setting
24 please.

25 BOARD MEMBER: No, we are going to the budget.

1 In the preparation of next year's budget,
2 we not only reviewed all of the income and expenses from
3 the current budget, and actual operations, but we also
4 authorized the new reserve study that was long overdue.
5 The last fee service study was completed in 2012, and it
6 has not been updated previously, based on the advice of
7 our construction defect attorney.

8 This reserve study is needed to help us
9 anticipate the need for funds for specified and
10 replacement or maintenance area items.

11 (Shuffling of papers.)

12 We have reduced the anticipated other
13 income for next year, based not only on the prevailing
14 trends that we have seen, but also based on the fact
15 that there are fewer units for sale at lower prices per
16 square foot. We derive a great portion of the other
17 income from both of the new member and transfer fees
18 charged at the sales on these units.

19 We anticipate that next year our other
20 income will be lowered by \$59,807, or 21.15 percent, or
21 as it relates to our monthly assessments, \$22.76 per
22 unit per month.

23 We also anticipated an increase in our
24 operating expenses to \$240,400. The main items that
25 have been increased include our payroll expenses, which

1 not only include wages, but also include payroll taxes
2 and benefits for our employees. We have factored in a 3
3 percent general payroll increase for our current
4 employees, and also included sufficient funds to hire
5 one additional person for the housekeeping staff, and
6 one also for the security team, which will serve as a
7 part-time package room employee.

8 The total increase for all of these
9 related items to the payroll will increase the budget by
10 \$161,000, or 7.48 percent, as it relates to our current
11 assessment, or \$61.29 per month, per unit per month.

12 Our contract expenses, which include next
13 year -- which next year includes the weed program, into
14 which I ran into great detail in the last board meeting.
15 The amount of this expense is \$150,000, and in an effort
16 to keep the budget down for next year, the board has
17 elected to take a charge of \$100,000 against this year's
18 anticipated excess revenues over expenses for \$110,000.
19 If we did not do this, the increase for the monthly
20 assessment more next year would be \$38.05 per month per
21 unit, higher than is being proposed.

22 As it is, the contract expenses will not
23 only increase by \$65,200, including the remaining
24 \$50,000 from the leaf (phonetic) program expense, this
25 increase will now be an 11 percent increase or 3.299

1 percent without the weed project included.

2 The actual contract expenses on an
3 apples-to-apples comparison equates to \$6.75 monthly
4 increase per unit, and with the leaf program included,
5 equates to a monthly increase premium of \$24.82.

6 Based on the usage, we expect to see
7 enough decline in our utilities expenses of \$61,300, and
8 an increase of \$9,000 in our liability insurance costs.
9 We have budgeted for a 6 percent increase in the general
10 expenses of \$25,100, and due to the age of our property,
11 the trending of expenses, we have increased our total
12 repairs and maintenance budget expense by \$36,500 or 6
13 percent also.

14 These expenses have a net increase of
15 \$9,858 and equate to a total increase in our monthly
16 assessment of \$3.76.

17 The total results of the budget for the
18 operational portion means -- of the HOA -- means that
19 for the next fiscal year we will be increasing that part
20 of the budget by \$295,992, or \$112 per unit per month.

21 In addition to the operations budget, we
22 must also provide for a budget for the reserve account,
23 which is different from our cash reserves set aside to
24 meet the obligations of the construction defect lawsuit.

25 As stated before, we had a new reserve

1 study prepared, and it was greatly different from our
2 old reserve study. The old study stated at the time
3 that we would have needed to be fully funded at
4 \$6,500,000, and the new study now shows that it would
5 have to be -- we would have to be at \$7,300,000 to be
6 fully funded now.

7 The old study shows that we should have
8 current assessments next year of \$1,140,000, and the new
9 study shows that that amount should now be \$1,344,000.
10 Part of the reason for the increased assessment is the
11 fact that for the first four years of the old reserve
12 study, your Board of Directors should have assessed
13 owners \$4,025,000 and they only assessed them
14 \$2,934,000, a shortfall of \$1,091,000.

15 In the past two years, while the board
16 started catching up, another shortfall of \$214,700
17 occurred. These shortfalls, coupled with the fact that
18 our values that have been increased due to the increased
19 actual current anticipated costs, and the earning power
20 of the funds that we have on deposit is declining,
21 having taken into account the new study.

22 By not following the principles of the new
23 study, it will eventually cause increased devaluations
24 on our unit values, and also necessitate the need to
25 consider a sizeable assessment for each unit. Therefore

1 the board has elected to follow the guidelines of the
2 current study, and it will increase the reserve portion
3 of the monthly assessment from \$374.43 per unit per
4 month to \$511.42 per unit per month.

5 As stated, the new monthly assessments for
6 nonpenthouse units will be \$2,255, and \$2,404 penthouse
7 units.

8 I would also like to point out that we are
9 attempting to keep the budget and related monthly
10 assessments as low as possible. Over the past few
11 years, the board has cut whatever fat it could out of
12 the budget in order to maintain and improve operations
13 and still be the premiere building that we live in. We
14 should all realize that with the costs increasing, we
15 will likely seek increases on the operations side of the
16 budget, of 5 to 7 percent per year, and there is also a
17 built in 3 and a half percent increase in the reserve
18 study.

19 We should expect to see these increases in
20 our future budget, which will be necessary to maintain
21 the high standards of this property that we all desire
22 and that we also need to maintain to increase our
23 property values.

24 Unless anybody on the board has any
25 questions regarding this proposed budget, I now ask for

1 your approval to adopt the budget as presented.

2 CHAIR: Any questions?

3 MEMBER: I do have a few questions that I would
4 like to ask the board.

5 MEMBER: You're asking the board
6 (indiscernible.)

7 CHAIR: Yes.

8 Any questions from the board?

9 MEMBER: I move that it be adopted.

10 (The motion is seconded.)

11 CHAIR: All in favor say aye.

12 (A chorus of ayes.)

13 CHAIR: Now, what do you have?

14 MEMBER: Unfortunately, I am not as equipped as
15 Jay to have the information, but I was under the
16 impression that we had reserves. I moved in here 11
17 years ago and there were reserves. Apart from the
18 reserves, we also have the allotment from the lawsuit
19 that is put aside for repairs and stuff like that. The
20 reason I am speaking is because I am not informed. I
21 need to be made aware of how this is happening because
22 just from the lay perspective, we paid here, 11 years
23 ago, (indiscernible.) We use our facilities. It was
24 our home.

25 Now I am paying for everything and getting

1 very little in return. It's basically escalating, and
2 I'm just putting it as a layman's perspective of why.
3 Because I always believed there were reserves that were
4 there for emergencies and for things that you are
5 talking about now, and (indiscernible) lawsuit, which
6 was to repair the damage, which we are waiting for, and
7 I am just wondering why we keep getting increased
8 assessments.

9 I understand that there is an increase
10 yearly because of yearly things and what have you, but
11 what about the other things that were here in the first
12 place that we were supposed to take advantage of, to
13 assist in these very issues? Is it because I am that
14 uninformed that I am not getting it? Or what is it?
15 Because we are paying for things that we have paid for,
16 me and my husband, so how is it -- can you just explain
17 to me in very simple terms why we are not using some of
18 the funds that I thought was there originally for this,
19 and you said they can't be now, and are not being used
20 to give us back in return?

21 MEMBER: Before you answer her, can I ask
22 something too? Are we getting assessed and are fees
23 going up?

24 BOARD MEMBER: No. There was no assessment.
25 No.

1 The board has the option -- the board
2 would have the option of assessing you, but -- but it
3 was not elected, it was not decided that the assessment
4 would take place. I believe it was decided that we
5 would not do a general assessment. I heard the rumors
6 and I heard it being spread all over the building,
7 everybody is anticipating, but no.

8 To speak to your question, the money from
9 the lawsuit is to fix the construction defects, and that
10 will -- that is -- that money is set aside generally for
11 that. That is all it is for.

12 CHAIR: It's not commingled.

13 BOARD MEMBER: It cannot be commingled. It
14 would be against the law for us to declare a dividend on
15 them. We must first fix everything that we sued for,
16 and then at that stage, if there was any money left
17 over, there is a waiting period and then something has
18 to be done. That's another story, we will probably
19 spend most of that, if not all.

20 The reserve that you are speaking to, that
21 is for the replacement of items. That is for replacing
22 couches, rugs, chairs, air conditioning units, anything
23 that pertains to the common area.

24 The lawsuit -- the State of Nevada, am I
25 right, the NRS puts forth that we must do a reserve

1 study to determine what the life cycle of every item is,
2 and determine how much it would cost to repair those
3 items, and at the conclusion, have sufficient monies to
4 do those replacements as they wear out. So a couch may
5 have a three-year life, the chair may have a seven-year
6 life. That table may have a 20-year life. Each one of
7 those, they prepare an assessment and they do a reserve
8 study, and they determine how much money is necessary to
9 be put aside every year.

10 In this particular case, the last reserve
11 study was done in the years 2012. The new study was
12 done in 2018. The costs that were attributed in 2012
13 have far escalated from 2018. So that table that may
14 have cost \$100 in 2012, today costs \$200. So now we
15 have to make up the difference from that \$100 to the
16 \$200 over the life of that table. So that in itself
17 explains the increase from the last year -- the last
18 reserve study to the current reserve study. And that
19 increased by over a million dollars.

20 In the meantime, when that reserve study
21 was done, they called for sufficient funds to be put
22 aside for the fund. That's \$6 million, but the previous
23 boards elected not to follow the rule -- the rules that
24 were laid out regarding that study. Therefore, in
25 effect, our reserve fund was short a million dollars in

1 cash. Aside from the increased values that depreciated
2 and amortized out over the next 10, 12 years, and that
3 was the increase entries in the reserve.

4 The third item that you spoke to is the
5 operational side. We are not a store. We can't
6 increase our prices. We don't have people that we can
7 advertise to bring in. All we can do is fund everything
8 here. Everything that has gone on. We have cut as much
9 fat out of the budget over the past three years, at
10 least Alice and I, being on the board list for three
11 more years, and the new board, we made every attempt to
12 cut back.

13 We cut every expense. We can't cut the
14 utility expense back anymore. We can't cut maintenance,
15 the building is like every year it gets a year older.
16 Every year another part wears out. It's just normal
17 operations, plus the fact, the sizeable income that we
18 had because of the many units that have been sold over
19 the past three or four years, there isn't that much of
20 an inventory, and we don't anticipate that amount of
21 income coming in for the next year.

22 And then we have that one additional
23 expense, that \$50,000 which is the back end of the leaf
24 program that has benefitted -- that benefits every
25 homeowner, and you could all figure it out yourselves.

1 It is roughly 41 cents per square foot of your unit in
2 tax savings, and that is good every year for the next
3 five years. And that saves everybody somewhere around
4 \$1300. So that couples with everything, and those are
5 the --

6 MEMBER: And I think we will be doing a reserve
7 study every year; right?

8 BOARD MEMBER: Well, this reserve study, yes,
9 we have contracted with the company that did the reserve
10 study. We contracted that they will do an update of our
11 reserve study, and now we have paid -- what did we pay,
12 about \$10,000 for this study, and I think it was another
13 2,000 every year, is it?

14 BOARD MEMBER: Something like that.

15 BOARD MEMBER: Something like that to update
16 all of the numbers that come through. And quite
17 possibly, maybe we won't be spending as much cash, so
18 that will take into effect. Once again, the way a
19 reserve study starts is they take your beginning cash
20 that is left in the reserve account. If we have over
21 anticipated, and we are not spending the money that we
22 think we will be spending, that money will then be
23 attributed to it, and it should be lower next year. But
24 we will follow the study.

25 MEMBER: And their task says that we will be

1 fully funded in --

2 BOARD MEMBER: Eight years.

3 It will take us eight years to make up
4 that \$1 million that should have been charged to prior
5 owners over the years but was never done.

6 MEMBER: Question. So you assessed the bill
7 for 2004 to 2255; is that right?

8 BOARD MEMBER: Correct.

9 MEMBER: So that is 251 a unit?

10 BOARD MEMBER: 251 a unit.

11 MEMBER: And there are 227 units?

12 BOARD MEMBER: Ten times 219 units.

13 MEMBER: That's about --

14 (Simultaneous speech.)

15 -- and it will take eight years to get
16 back a million dollars.

17 BOARD MEMBER: No. \$360,000 of it is for the
18 reserve study. It is the reserve. The other 200 and
19 some odd thousand dollars is the operational side of it.

20 (Simultaneous speech.)

21 BOARD MEMBER: -- and fund the study
22 (indiscernible) and we are spending money also, so it's
23 not all --

24 MEMBER: All right. And then on the money that
25 is in the loss account --

1 BOARD MEMBER: Right, the construction defect
2 part.

3 MEMBER: Is there any interest income on that?

4 BOARD MEMBER: Oh yeah.

5 MEMBER: Is that going -- where is that money
6 going?

7 BOARD MEMBER: It is staying in that fund. I
8 was able to negotiate with the bank when we received the
9 money. I was able to get 1 percent on our money at that
10 time, when it was 1/10th of 1 percent everywhere else.
11 We are getting about \$15,000 a month, 15, \$17,000 a
12 month on that, and it is just building up in the fund.

13 MEMBER: So it is not being used for
14 operational expenses?

15 BOARD MEMBER: Not being used at all.

16 MEMBER: Can you address that?

17 BOARD MEMBER: Yes. It is against the law.
18 Until -- part of when you file a construction defect, as
19 explained to us by our attorneys, any funds that -- if
20 those funds must go into a separate fund. Anything that
21 I earn on them stays in that fund until it is all
22 expended. At that stage, if there's anything left over,
23 then there is a procedure that can be followed where a
24 dividend can be issued, or could reduce the operational
25 side of the budget for that year. There are things to

1 do. But that won't happen at least for -- well, when we
2 get into discussing the construction defect side a
3 little bit later on. But figure three years before that
4 money would even be able to be tapped into by us.

5 MEMBER: Just have a question. You have \$8,000
6 for (indiscernible) and 64,000 for the doors. Can you
7 address the doors for a second?

8 BOARD MEMBER: The doors were the front doors,
9 the automatic doors, the openers. Is that what it was,
10 Ken?

11 BOARD MEMBER: Yes.

12 BOARD MEMBER: Yeah.

13 MEMBER: All four doors are broken?

14 BOARD MEMBER: Yes.

15 MEMBER: And they all wore out at the same
16 time, Ken?

17 BOARD MEMBER: Yes, we have tried to limp along
18 and then that one finally gave out. So there are two
19 pairs. Two pairs of doors.

20 CHAIR: How about you?

21 MEMBER: I know the amount of hard work and
22 effort that it takes to scrutinize the numbers. So
23 thanks to the staff and the board for doing what you do.
24 I slugged through it for five years here, and it's not
25 easy work.

1 The saving grace is, we have some
2 historical numbers from year to year that we can benefit
3 from.

4 Did I understand that we spent \$92,000 on
5 improving the wifi? Or did I misunderstand that?

6 BOARD MEMBER: Right. It's the infrastructure
7 that's the backbone for the network system for the
8 building, where you know, the wifi and all of that.

9 MEMBER: It just seems like a lot of money.

10 BOARD MEMBER: Yeah, it does.

11 MEMBER: Wow.

12 BOARD MEMBER: And it is a lot of money, but
13 when I went out and looked at this, what was the best
14 way to have the wifi in all of the areas, especially the
15 gym and whatnot. That is basically what it came to.

16 MEMBER: Do that many people use it?

17 BOARD MEMBER: Yeah.

18 MEMBER: So it's worth it?

19 BOARD MEMBER: Everybody uses it in this room,
20 in the fitness center and all over the place. And the
21 system we have now is failing. In fact, the fitness
22 center is held by a wire coming from the wine patio,
23 wraps around the outside of the building and --

24 MEMBER: So obviously we have technology today
25 that we didn't have 12 years ago.

1 BOARD MEMBER: Correct; right.

2 MEMBER: Secondly, and maybe you've done it. I
3 know we spent -- I suspect we spent a lot of money on
4 the key fobs, the new key fobs and the whole system, and
5 I don't notice any difference other than I got a
6 different key fob. Did we ever get any information on
7 what the new system is going to do that the old system
8 didn't do, or why we spent the money versus not?

9 BOARD MEMBER: Well, the old system was
10 obsolete and the software wasn't supported. We
11 basically had been praying every night that the system
12 keeps going. So the system was again obsolete. We have
13 a lot of features that the old system wouldn't do as far
14 as software. We can track things more than we have ever
15 been able to, but it's basically that system was dying
16 on the vine.

17 MEMBER: Just curious, but you mentioned it
18 before, I can't remember what kind of money that was.

19 BOARD MEMBER: For the cameras and card access
20 with phase 1 was \$1.2 million.

21 MEMBER: Wow.

22 BOARD MEMBER: Yeah, a lot of money.

23 MEMBER: And so that money came out of
24 operating?

25 BOARD MEMBER: Reserves.

1 MEMBER: Obviously, we hadn't reserved that
2 kind of amount of money to replace that.

3 BOARD MEMBER: It was in the reserves, the \$1.2
4 million.

5 BOARD MEMBER: It was there. It was there.

6 MEMBER: Really. Well, that's good. Thank God
7 it was in the reserves.

8 BOARD MEMBER: Most of it was on last year's --
9 like 700,000 in the last year and the balance out of
10 this year.

11 BOARD MEMBER: But there were certain things in
12 the reserve study that weren't in the reserve study, the
13 old one, but the new one -- a big ticket item is
14 painting the exterior of this building. It wasn't in
15 the previous reserve study. So those and other things
16 that are critical, the LED lighting is in there now, and
17 there's a lot of other things that are in the reserve
18 account so that we don't have this problem in the
19 future.

20 MEMBER: Ken, are you planning on mailing out
21 anything regarding the reserve study?

22 BOARD MEMBER: Yes.

23 MEMBER: So everybody is going to get an
24 abbreviated -- actual reserve of study --

25 MEMBER: I was going to ask the same question.

1 MEMBER: So everybody is going to get an
2 abbreviated version of the reserve study showing you --
3 explaining the reserve study and showing the current
4 needs for the current items for the current year.

5 BOARD MEMBER: So the full reserve study is
6 about 140 pages. So the executive summary will be about
7 10 or 15 pages. So if anybody wants to see the full
8 reserve study --

9 CHAIR: One of the things, Ken, about -- to
10 answer Fred's question, it is easy to lose sight of
11 them, but once the cameras are fully implemented, this
12 site will be much more protected than it ever was, but
13 to get the cameras to speak to the elevators and the
14 whole (indiscernible) and the whole system is what costs
15 the most money. Because it is a very large global,
16 interconnected technology.

17 BOARD MEMBER: And it is the quality of the
18 cameras. These cameras look 360 degrees at all times.
19 And it is all digital and in HD.

20 CHAIR: And it has been tested in real life, so
21 we know that it works.

22 MEMBER: I think from a larger perspective, I
23 think last year we did not have an increase in the
24 budget, if I am not mistaken.

25 BOARD MEMBER: We did not have an increase in

1 the reserve budget.

2 MEMBER: But the HOA fees did not go up at all
3 last year. It was a minor project, some of the
4 penthouse units for the elevator, I think basically we
5 have no --

6 (Simultaneous speech.)

7 And I'm not trying to be negative with
8 Jay, but a little bit of it, I think, from a bitter
9 perspective, is that we have been a little bit spoiled,
10 I think more -- there was always hope that we would have
11 a great big settlement from CD and from (indiscernible)
12 and I know my wife and I have been in the building for
13 about nine years, and I think for the first four or five
14 years there was no increases at all in any of the HOA
15 fees.

16 So we kind of burned a lot of money there,
17 they allowed some of the numbers to fall behind, and I
18 think this is the time where through the CD study now,
19 we have got to do a reserve study updated, and it just
20 seems like we had to get a permanent reality. And so we
21 just followed behind and it is a little bit -- it's just
22 the reality of the situation and it is just catching up
23 and paying the piper.

24 CHAIR: And now we have got some governance
25 behind us because we have a reserve study done by a

1 third party, which we never had on these issues.

2 MEMBER: And Terry, to your point, the last two
3 years, the year 2018, we did not increase from 2017
4 because 2004, for the last 24 months, and the prior year
5 was \$1957.10, and that amounted to a \$47 increase.

6 So for the third last three years, that
7 was the only increase we had. And that was for the
8 three years.

9 MEMBER: And you also pointed out something
10 several times. In years prior, there was significant
11 amount of cash flow coming in on the resales.

12 CHAIR: Yes.

13 MEMBER: Of that revenue, and that's gone.

14 BOARD MEMBER: Yes, it is decreasing every
15 year. Every year.

16 CHAIR: Yes.

17 MEMBER: Part of the question that is included,
18 I have also been here for ten years actually. The cost
19 has dramatically increased, were changes to that
20 (inaudible.)

21 BOARD MEMBER: The cost of what?

22 MEMBER: Using the facilities.

23 BOARD MEMBER: Well, it equates to a lot of
24 things. You know, our utilities costs are in there. It
25 equates to our insurance costs that are in there. It

1 equates to the repairs and maintenance of this entire
2 facility. The maintenance costs are in here. It
3 equates to payroll, and payroll is and payroll and
4 contract expenses are the two largest things.

5 We pay -- our elevator contract is what,
6 \$20,000 a month just to maintain the elevators here. We
7 pay \$20,000 a month. I mean, costs are costs. Our
8 payroll is there. And our other income, which are the
9 fees that we get every time somebody sells a unit, a new
10 purchaser gets a deduction from his -- there is a fee of
11 3/10ths of --

12 MEMBER: One-third of 1 percent.

13 BOARD MEMBER: -- one-third of 1 percent coming
14 to us, and then there is a charge to the new resident,
15 who pays a fee also. Those are increasing. They must.
16 That, coupled with everything else, it is just an
17 ongoing expense, living in an older property. It's not
18 ten years younger, when they were 40 percent occupied
19 and they needed far fewer people to maintain -- to staff
20 the premises, for cleaning operations, for security
21 operations. It is just an ongoing thing.

22 Now it is close to fully -- close to fully
23 occupied, and these expenses keep going.

24 And people demand certain things. We have
25 heard it at previous board meetings, on and on. We need

1 more cleaning help, we need more security help. But the
2 -- my packages aren't being delivered on time.

3 So all of these expenses, while we are
4 trying to cut them, we also realize that we have to
5 increase them. And then we have revisions of our
6 benefit insurance -- I told you how much we are paying
7 for benefit insurance for our people, and it is an
8 enormous amount.

9 MEMBER: Well, I have a question that wasn't
10 addressed. So is that good enough? Is that staying the
11 same?

12 (Simultaneous speech.)

13 BOARD MEMBER: No, it is the same budget, it is
14 the same amount as it was last year.

15 MEMBER: Okay. I have another question. If I
16 wanted to use the weight room, (indiscernible) \$2000. I
17 haven't seen a lot of people use anything lately, and I
18 just wondered if that's being requested.

19 MEMBER: It's too expensive for people to use.

20 MEMBER: The question was, was your last year's
21 projection for the usable facilities? Was it anywhere
22 near what was projected?

23 BOARD MEMBER: Let me take a quick look.

24 MEMBER: And later on --

25 (Simultaneous speech.)

1 MEMBER: -- we need money to put in the reserve
2 fund, if we took 1.5 money out for these fobs, which I
3 don't see any difference in, we wouldn't have had to
4 have another assessment to put money back in the reserve
5 fund, would we?

6 MEMBER: Oh, what happens is, \$92,000 for --
7 and a million two for the cameras --

8 MEMBER: It's ridiculous.

9 MEMBER: There's no way we could have
10 anticipated that ten years ago. That would be kind of
11 a --

12 MEMBER: They stick it to us now.

13 MEMBER: The other thing is, for five years, I
14 was sitting on the board and was acting general manager,
15 and helped people struggle through the recession. I
16 worked my full-time job, plus I worked this when
17 everybody was sleeping and enjoying their life, so we
18 saved \$250,000 in salary and benefits by not having a
19 general for five years.

20 BOARD MEMBER: That's something for discussion.
21 You're asking for operational money, you know.

22 MEMBER: And what happens is, when a lot of our
23 staff has been here a long time, so they get their
24 annual increases, so if you were paying somebody 35,000
25 ten years ago, today you're paying 50,000.

1 (Simultaneous speech.)

2 MEMBER: We went and sat, when the recession
3 hit, we're going to cut it. Everybody has to look at
4 their departments.

5 MEMBER: Yes.

6 MEMBER: And we looked at every single expense,
7 and we said how can you --

8 (End of recording.)

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C E R T I F I C A T E

I, Carmelita E. Lee, do hereby certify that
the foregoing pages constitute a full, true and accurate
transcript of the proceedings had in the foregoing matter,
transcribed from an electronic recording to the best of my
skill and ability.

Witness my hand this 18th day of August,
2019.



Carmelita E. Lee
Certified Electronic Transcriber
Certificate No. CET**D-499

WORD INDEX

< \$ >

\$1 47:4

\$1,091,000 39:14

\$1,140,000 39:8

\$1,344,000 39:9

\$1.2 51:20 52:3

\$10,000 46:12

\$100 44:14, 15

\$100,000 34:7

37:17

\$110,000 34:3

37:18

\$112 38:20

\$122,000 33:12

\$1300 46:4

\$15,000 48:11

\$150,000 34:6

37:15

\$161,000 37:10

\$17,000 48:11

\$184,900 33:10

\$1957.10 55:5

\$2,255 40:6

\$2,404 40:6

\$2,934,000 39:14

\$20,000 56:6, 7

\$200 44:14, 16

\$2000 57:16

\$214,700 39:16

\$22.76 36:21

\$24,800 33:5

\$24.82 38:5

\$240,400 36:24

\$25,100 38:10

\$250,000 58:18

\$256,500 33:3

\$295,992 38:20

\$3.76 38:16

\$36,500 38:12

\$360,000 47:17

\$374.43 40:3

\$38.05 34:9 37:20

\$4,025,000 39:13

\$452,800 33:7

\$47 55:5

\$50,000 22:2

37:24 45:23

\$511.42 40:4

\$5619.72 35:6

\$59,807 36:20

\$6 44:22

\$6,500,000 39:4

\$6,940 35:11

\$6.75 38:3

\$60 4:13

\$61,300 38:7

\$61,700 33:24

\$61.29 37:11

\$64,517 35:9

\$65,200 37:23

\$684,500 33:2

\$7,300,000 39:5

\$8,000 49:5

\$8,750.96 35:14

\$9,000 38:8

\$9,750 35:16

\$9,858 38:15

\$92,000 50:4 58:6

\$92,724.58 35:4

< 1 >

1 3:23 48:9, 10, 10
51:20 56:12, 13

1.5 58:2

10 23:19 45:2

53:7

100 31:3

10-story 28:18

10th 48:10

10ths 56:11

11 37:25 41:16, 22

12 12:14 15:3

45:2 50:25

12-month 13:21

14:4 15:7

140 53:6

15 48:11 53:7

16 13:13

166 28:10

16th 3:2 7:1, 15,

24 10:22, 23 11:7

12:3

18 29:13

180 1:8

18th 60:11

< 2 >

2 9:24 10:2, 12, 19

14:16 25:25

26:12 35:5

2,000 46:13

20 19:12, 14 26:13

200 47:18

2004 47:7 55:4

2012 36:5 44:11,
12, 14

2017 55:3

2018 1:5 2:1

44:12, 13 55:3

2019 60:12

2020 25:3

20-year 44:6

21 1:5 2:1

21.15 36:20

219 47:12

21st 15:8, 11

2255 47:7

227 47:11

24 55:4

251 47:9, 10

2nd 11:8

< 3 >

3 34:24 37:2

40:17 56:11

3,299 37:25

3.9 24:23

30 11:24

300 28:17

30th 32:25 34:13

35,000 58:24

360 53:18

< 4 >

40 31:12 56:18

41 46:1

435 20:3

< 5 >

5 11:22 14:16

40:16

50,000 58:25

< 6 >

6 4:14 10:8, 10

38:9, 12

64,000 49:6

< 7 >

7 18:21, 25, 25

24:24 40:16

7.48 37:10

700 4:14

700,000 52:9

< 9 >

9101 1:3

< A >

A-17-758528 1:11

abbreviated 52:24

53:2

ability 5:22 60:10

able 6:3 31:15

48:8, 9 49:4 51:15

Absolutely 20:1, 12

abuse 27:3, 3

Academy 4:17

accepted 15:20

19:10, 11

access 30:5 51:19

account 33:2, 2

35:7 38:22 39:21

46:20 47:25 52:18

accounting 19:11

accounts 33:4

accurate 60:7

acre 19:1 25:17,

17

acreage 9:25

10:10 19:6, 12

25:1

acres 10:3, 7 31:13

acting 58:14

actions 4:10

activists 6:23

actual 36:3 38:2

39:19 52:24

addition 9:8

21:17 22:7 38:21

additional 22:8

37:5 45:22

address 2:8 48:16

49:7

addressed 57:10

administration

13:14

adopt 41:1
adopted 41:9
advantage 42:12
advertise 45:7
advise 36:6
advisory 3:14
affairs 3:20
aforementioned 35:19
age 38:10
agenda 11:2, 19 13:19 15:19
ago 26:6 41:17, 23 50:25 58:10, 25
agreed 17:8 19:13 25:19 28:24
agreement 6:22 11:9, 10, 17
ah 17:2
ahead 9:15
aid 3:22
Air 4:17 43:22
airport 6:12, 16
al 1:8, 10
Albright 4:5
Alice 45:10
allotment 41:18
allowed 16:11, 13 54:17
Alta 1:3 2:21
Alto 9:18
amendment 9:22, 22 15:17
amendments 15:21
America 4:3 6:14
amortized 45:2
amount 27:3 37:15 39:9 45:20 49:21 52:2 55:11 57:8, 14
amounted 33:5 55:5
animal 6:22, 23
animals 5:14, 19, 23 6:7, 12, 17
animosity 26:11
annual 32:5 58:24
answer 12:24 13:1 34:15 42:21 53:10

answers 12:9 13:5, 7
anticipate 36:9, 19 45:20
anticipated 36:12, 23 37:18 39:19 46:21 58:10
anticipating 43:7
anybody 23:20 27:19 34:16 40:24 53:7
anymore 45:14
anytime 31:1
Apart 41:17
appears 22:20
Applause 27:23 32:4
apples-to-apples 38:3
applicable 18:18, 19, 20
application 15:16, 22, 23, 25
apply 11:2
appraised 24:23
appreciate 27:7 31:20
approached 19:21
approval 12:23 22:3 26:17 41:1
approve 20:8 34:11
approved 7:15, 19, 24 8:7 16:12 17:8 18:14 22:1 25:6 28:10 34:21, 25
approximately 21:6
April 32:25 34:13
area 5:10 6:2 10:6 15:15 16:21 17:9, 13 18:25 19:5, 24 36:10 43:23
areas 2:11 50:14
Arizona 30:15, 19 31:16
arroyo 25:2
arroyos 25:4

aside 38:23 41:19 43:10 44:9, 22 45:1
asked 12:7, 8 23:7
asking 12:19 41:5 58:21
assessed 39:12, 13 42:22 47:6
assessing 43:2
assessment 34:10 37:11, 20 38:16 39:10, 25 40:3 42:24 43:3, 5 44:7 58:4
assessments 36:21 39:8 40:5, 10 42:8
assist 42:13
assumed 5:17, 18
attacks 27:3
attempt 45:11
attempting 40:9
attorney 13:3, 3 14:7 16:15 23:9 36:7
attorneys 48:19
attributed 44:12 46:23
AUDIO 1:2 2:1
August 11:8, 25 15:23, 23 60:11
authorities 30:7
authority 31:11
authorized 36:4
automatic 49:9
available 32:24 33:1 34:14
award 22:20
aware 41:21
aye 32:11, 16 35:21 41:11
ayes 32:12, 17 35:22 41:12

< B >
back 2:8 3:10 5:1 7:12 8:2 11:17 15:1 17:12 20:9, 15 26:16 29:14 30:13, 21 31:2, 5, 9 42:20

45:12, 14, 23 47:16 58:4
backbone 50:7
Badlands 2:10 3:4 7:5 10:18 11:8 12:22 13:17 17:7 19:7
balance 52:9
balanced 34:11
ballpark 19:14
ban 5:15
bank 48:8
based 36:6, 13, 14 38:6
basically 33:5, 13 42:1 50:15 51:11, 15 54:4
basis 15:22
beautiful 20:18 25:15
Beers 15:9
Beetle 25:15
beginning 13:13 46:19
believe 15:9 31:23 34:1, 3 43:4
believed 42:3
benefit 33:18 50:2 57:6, 7
benefits 22:11 37:2 45:24 58:18
benefitted 45:24
best 21:20, 24 25:23 26:11 31:24 50:13 60:9
better 4:19, 21 7:19 30:11
beyond 17:10, 10
biased 21:11
big 6:25 29:20 52:13 54:11
bill 34:6 47:6
billings 33:6
billion 4:13, 15
bit 3:8 4:12 7:22 8:12 24:5 30:19 49:3 54:8, 9, 21
bitter 54:8
board 3:15 30:1 32:22 34:6, 11, 21, 22, 25 35:13, 17, 18,