

Footnote to Infamy (1)*

The more I think about the civil summons that was served upon the members of the Petitioners' Committees the more I find myself asking what purpose is really being served? Neither the initiatives nor the committee members threatened anyone in any way. There is clearly no emergency. The initiatives to limit spending, limit the number of golf courses owned by the city, and place term limits on commission and committee members would have gone away on their own if they were voted down in the November election. Why were the initiatives seized upon as the pretext to create a crisis that has clearly divided the community and instigated strife? Why did it have to happen now?

In trying to make sense of the lawsuit served by Lionel & Friends I have been re-reading the City Charter. I am finding little that supports Lionel's actions and arguments. As sometimes happens, in searching for the answer to one question, I might have found the explanation to another.

Article 1, Section 67, Paragraph 1 of the Boulder City Charter is titled "When Contracts and Expenditures Prohibited." It reads as follows:

No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment.

To put this in plain English, the city cannot issue a blank check. If the cost of a project or program is not known, funds cannot be allocated, and it cannot be funded. Violation of this section of the City Charter is a crime. If caught and convicted, the city officer or employee involved loses their job, and the agreement is rendered null and void.

SolBio has defaulted on their solar energy lease agreement with the city. Last budget year SolBio missed their first lease payment, \$80,000.00, and the city spent the money anyway. Even though they have yet to pay a dime, the city included the next lease payment from SolBio, \$1,000,000.00, in this year's budget. It looks like the end is at hand, but wait, all is not lost. The same senior city staff who negotiated and mismanaged the SolBio agreement are back with yet another fantastic solar energy deal. By leasing land to Taihen Techren, at fire sale rates, we can avoid financial disaster. Remember Mr. Tobler's comment about "dirt we can't even use." Taihen, which is still not licensed to do business in Nevada, has the city bent over a barrel and knows it.

The Taihen agreement was submitted to the city council for approval and kicked back for additional work. The fatal flaw in the agreement is the part where Taihen agrees to build a 2 mega-watt solar generating facility for the city. The city, in return, agrees to pay Taihen for the cost of the facility. The cost is not identified anywhere in the agreement. I suspect that it is probably not possible to even accurately estimate the cost. If the city council approves the agreement, they are handing Taihen a blank check. This is exactly the type of act that is prohibited by Article 1, Section 67, of the City Charter.

Do you remember what Rahm Emanuel, the White House chief of staff said?

"You never want a serious crisis to go to waste – and what I mean by that is an opportunity to do things that you didn't think you could do before."

If you have a serious problem it is simple enough to create a serious crisis. I am sure that the same city staff who are involved in SolBio and Taihen capers are looking fondly ahead to retirement, and would gladly sell their own mothers if that is the cost of realizing their dreams for those golden years. If the pro-golf folks are fighting with the no-golf faction, and everyone is arguing over issues that they have yet to vote on, who knows what might be slipped past the city council? Truly this is "an opportunity to do things you didn't think you could do before," and that is especially important if you are about to be held accountable for failing to do the things you should have done.