



AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF FEBRUARY 2, 2011

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:
RECOMMENDING COMMITTEE: ELIGIBLE FOR ADOPTION AT THIS MEETING:

Bill No. 2011-2 Updates the regulations governing certain commercial, entertainment and solicitation activities within the Pedestrian Mall. Proposed by: Bradford R. Jerbic, City Attorney and Councilman Gary Reese

Fiscal Impact

☐ No Impact ☐ Augmentation Required
☐ Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will update the regulations governing certain commercial, entertainment and solicitation activities within the Pedestrian Mall. The bill is intended to address the results of litigation regarding the Pedestrian Mall, allowing for protected expression subject to reasonable time, place and manner regulations. (An earlier version of this bill, Bill No. 2010-31, was introduced and considered by the Council last year. Amendments were proposed and discussed, but an acceptable version was not able to be presented before the adoption deadline passed.)

RECOMMENDATION:

ADOPTION at 2/2/2011 City Council meeting pursuant to the 2/1/2011 Recommending Committee.

First Reading 1/5/2011 First Publication 1/20/2011

BACKUP DOCUMENTATION:

1. Bill No. 2011-2
2. Business Impact Statement
3. Bill No. 2011-2 First Amendment
4. Submitted at Meeting Letter by Charleston Neighborhood Preservation for Items 45, 47, 48 and 51

Motion made by RICKI Y. BARLOW to Approve as a First Amendment

Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 1; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY; (Against-None); (Abstain-None); (Did Not Vote-STEVE WOLFSON); (Excused-None)

Minutes:

Second reading and bill adopted as a First Amendment as Ordinance No. 6131.

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COUNCILMAN REESE thanked ATTORNEY ALLEN LICHTENSTEIN for working with City Attorney staff on this ordinance.

CITY ATTORNEY JERBIC stated that litigation has been ongoing for the Pedestrian Mall for almost 16 years, but this is the first bill draft that both parties have agreed to. He then highlighted the new ordinance language governing certain commercial entertainment and solicitation activities within the Pedestrian Mall.

COUNCILMAN ROSS supported First Amendment rights, but not to the hindrance of the safety of the public visiting the Fremont Street Experience. He supported this reiteration of the ordinance, anticipating that there will be necessary changes in the future. He commended everyone involved in reaching this point.

COUNCILMAN WOLFSON expressed concern with some of the street performers wearing masks having access to children, especially because the visitors might be under the misimpression that all performers are licensed by the City. COUNCILMAN ROSS verified with CITY ATTORNEY JERBIC that the City cannot prohibit masks as part of a costume.

MAYOR GOODMAN stated that he will support this, even though he does not like it, because COUNCILMAN REESE feels it is necessary for the Fremont Street Experience and out of respect for U.S. DISTRICT JUDGE William E. Bryant. He felt that if a seven-mile stretch on Waikiki Beach, Hawaii, is protected, the Fremont Street Experience should also be protected because it is a private enterprise. He has seen tourists at the Fremont Street Experience accosted, but the City has been told that the street performers cannot be cited or prohibited from the area.

COUNCILMAN BARLOW commended the ACLU and City staff members who negotiated this ordinance and stated that the unlicensed street performers pose a financial burden on the licensed business owners that follow the regulations.

TODD BICE, Legal Counsel for Fremont Street Experience, LLC, stated that no one is overly thrilled with this ordinance, but it is a step in the right direction. The original ordinance would have created zones, but the ACLU objected to that. He also anticipates that future changes will be necessary.

JUANITA CLARK, on behalf of Charleston Neighborhood Preservation, enumerated various concerns, which were listed in the written document she submitted that was made a part of the backup documentation.

ATTORNEY ALLEN LICHTENSTEIN commented that this was a very involved process, and both parties tried to stay within the confines of the courts. He hopes that future changes can be made without having to go back to the courts. Unfortunately, free speech comes at a price, but all the parties involved tried to reduce the secondary effects as much as possible.

COUNCILMAN REESE thanked MR. VICTOR and reiterated that changes to the regulations were necessary to protect the citizens and tourists who visit the Fremont Street Experience.