

City of Las Vegas

**RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S EIGHTH FLOOR CONFERENCE ROOM
CITY OF LAS VEGAS INTERNET ADDRESS: www.lasvegasnevada.gov
AUGUST 3, 2010
9:00 A.M.**

THE RECOMMENDING COMMITTEE WILL RECEIVE PUBLIC INPUT ON EACH ITEM OF LEGISLATION BEING CONSIDERED. THE RECOMMENDING COMMITTEE MAY, THEREAFTER, CONTINUE THE HEARING TO A FUTURE DATE OR FORMULATE A RECOMMENDATION TO THE CITY COUNCIL FOR PASSAGE, REJECTION OR AMENDMENT OF THE PROPOSED BILL. ANY MEMBER OF THE CITY COUNCIL MAY SUBSTITUTE FOR A MEMBER OF THE RECOMMENDING COMMITTEE AT ANY TIME.

DUPLICATE AUDIO CDS MAY BE AVAILABLE AT A COST OF \$5.00 EACH THROUGH THE CITY CLERK'S OFFICE.

1. CALL TO ORDER
2. ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW
3. ABEYANCE ITEM - Bill No. 2010-31 – 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
4. Bill No. 2010-32 – Levies Assessment for Special Improvement District No. 1513 - Via Olivero Avenue and Valadez Street (East of Cimarron Road). Sponsored by: Step Requirement
5. Bill No. 2010-33 – Adopts the most recent versions of the Local Government Records Program Manual and minimum records retention schedules for local governments in Nevada, and repeals LVMC 2.52.040 (relating to the minutes of City boards and commissions). Proposed by: Beverly K. Bridges, City Clerk
6. CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited
7. ADJOURNMENT

ALL INTERESTED PERSONS ARE INVITED TO ATTEND: Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Friday, 8:00 A.M. to 5:00 P.M.

Facilities are provided throughout City Hall for the convenience of disabled persons. Reasonable efforts will be made to assist and accommodate physically handicapped persons. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting.

City of Las Vegas

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge

Bulletin Board, City Hall Plaza, (next door to Metro Records)

Las Vegas Library, 833 Las Vegas Boulevard North

Clark County Government Center, 500 S. Grand Central Parkway

Grant Sawyer Building, 555 E. Washington Avenue

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CALL TO ORDER



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY CLERK

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SUBJECT:

ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

ABEYANCE ITEM - Bill No. 2010-31 – 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.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2010-31
2. Business Impact Statement
3. Letter and Copy of Santa Monica Municipal Code by Allen Lichtenstein

1 **BILL NO. 2010-31**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE THE REGULATIONS GOVERNING CERTAIN COMMERCIAL,
4 ENTERTAINMENT AND SOLICITATION ACTIVITIES WITHIN THE PEDESTRIAN MALL,
AND TO PROVIDE FOR OTHER RELATED MATTERS.

5 Proposed by:
6 Bradford R. Jerbic, City Attorney
Councilman Gary Reese

Summary: Updates the regulations governing
certain commercial, entertainment and solicitation
activities within the Pedestrian Mall.

7 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
8 AS FOLLOWS:

9 SECTION 1: Title 10, Chapter 44, Section 10, of the Municipal Code of the City of
10 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **10.44.010:** For purposes of this Chapter:

12 (A) "Solicitation" means the act of solicitation, including asking, begging, soliciting
13 or pleading, for the purpose of [immediately] obtaining money, charity, business or patronage, or gifts
14 of items of value for oneself or another person or organization.

15 (B) "Coercion" means to wilfully and knowingly:

16 (1) Approach or speak to a person in such a manner as would cause a
17 reasonable person to believe that the person is being threatened with:

18 (a) Imminent bodily injury, or

19 (b) The commission of a criminal act upon the person or another
20 person, or upon property in the person's immediate possession;

21 (2) Persist in a solicitation after the person solicited has given a negative
22 response;

23 (3) Block, either individually or as part of a group of persons, the passage
24 of a solicited person[;] , including by means of the use of physical objects; or

25 (4) Engage in conduct that would reasonably be construed as intended to
26 compel or force a solicited person to accede to demands.

27 SECTION 2: Title 11, Chapter 68, Section 20, of the Municipal Code of the City of
28 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

1 **11.68.020:** As used in this Chapter:

2 [(A)] "Celestial vault lightshow" is the display of computer-generated electronic images on
3 the ceiling of the celestial vault constructed above Fremont Street and the various light and sound
4 effect accompanying such images.

5 [(B)] "Display vehicles" are those vehicles brought into the Pedestrian Mall for purposes of
6 display to the public, and not for the primary purpose of transporting persons or property.

7 [(C)] "Emergency vehicles" are those motorized devices in, upon or by which any person
8 or property is or may be transported or drawn upon a street or sidewalk, including, without limitation,
9 automobiles, motorcycles and mopeds.

10 [(D)] "Exterior building improvements" means the building facades, marquees, overhangs,
11 recessed entries, adjoining mall area paving materials, signage and graphics, adjoining landscaping,
12 building illumination and audible effects or devices.

13 "Free expression zones" means those areas within the Pedestrian Mall that have been
14 specifically designated by the City of Las Vegas to be used for solicitation, leafleting and mall
15 entertainment in accordance with LVMC 11.68.103. The boundaries of the free expression zones shall
16 be as set forth in Exhibit A of this Ordinance (Ordinance No. _____), which ordinance is codified in
17 this Chapter and Exhibit A of which is adopted herein by this reference.

18 "Leafleting" means the act of distributing to any passersby in a continuous or repetitive
19 manner any printed, written or graphic materials.

20 [(E)] "Motorized vehicles" are those motorized devices in, upon or by which any person or
21 property is or may be transported or drawn upon a street or sidewalk, including, without limitation,
22 automobiles, motorcycles and mopeds.

23 [(F)] "Maintenance vehicles" are those vehicles owned or operated by the City of Las Vegas,
24 as well as vehicles owned and operated by utilities and other vehicles requiring access onto the
25 Pedestrian Mall for the purpose of the repair and maintenance of the Pedestrian Mall or facilities and
26 structures contained therein.

27 "Mall advertising" includes all advertising within or in connection with the Pedestrian
28 Mall including, without limitation, any means of marketing or promoting the Pedestrian Mall, special

1 events, or any other commercial activity, and the display of consumer goods, products, or services to
2 the users of the Pedestrian Mall for the purpose of encouraging the sale and purchase thereof,
3 including, without limitation, signs, pictures, or other displays.

4 “Mall entertainment” is the conduct on the part of any person intended to provide
5 entertainment, recreation, relaxation or enjoyment to the users of the Pedestrian Mall.

6 “Mall vending” is the distribution, display or sale, or any combination thereof, of
7 consumer goods or services (including food, drink or merchandise) from a pushcart, concession stand,
8 kiosk or other similar structure designed for such purpose.

9 [(G)] “Management agreement” means that agreement executed between The Fremont Street
10 Experience Limited Liability Company and the City of Las Vegas for the purpose of acquisition,
11 construction, operation, management or maintenance of the Pedestrian Mall.

12 [(H)] “Parade” is a group of persons with or without animals or vehicles in a public
13 procession or march and does not include a procession or march in connection with a special event
14 or mall entertainment.

15 [(I)] “Pedestrian Mall Act” refers to NRS 268.810 through 268.823.

16 [(J)] “Special events” include festivals, sporting events, exhibitions, entertainment and
17 similar activities which are not offered on a continuous basis, whether or not members of the public
18 pay an admission or entrance fee to be spectators or participants.

19 [(K)] “Special permit vehicles” are those vehicles authorized by The Fremont Street Limited
20 Experience Liability Company in accordance with Section 11.68.080 to enter upon the Pedestrian
21 Mall.

22 [(L)] “Mall advertising” includes all advertising within or in connection with the Pedestrian
23 Mall including, without limitation, any means of marketing or promoting the Pedestrian Mall, special
24 events, or any other commercial activity, and the display of consumer goods, products, or services to
25 the users of the Pedestrian Mall for the purpose of encouraging the sale and purchase thereof,
26 including, without limitation, signs, pictures, or other displays.

27 (M) “Mall entertainment” is the conduct on the part of any person intended to provide
28 entertainment, recreation, relaxation and enjoyment to the users of the Pedestrian Mall.

1 (N) "Mall vending" is the distribution, display or sale, or any combination thereof, of
2 consumer goods or services (including food, drink or merchandise) from a pushcart, concession stand,
3 kiosk or other similar structure designed for such purpose.]

4 SECTION 3: Title 11, Chapter 68, Section 100, of the Municipal Code of the City of
5 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **11.68.100:** The following are prohibited within the Pedestrian Mall:

7 (A) Animals unless used in connection with a mall activity authorized by The
8 Fremont Street Experience Limited Liability Company or used for the purpose of assisting the visually
9 or aurally impaired;

10 (B) Mall vending, mall advertising, [mall entertainment] special events or other
11 commercial activities unless conducted or authorized by The Fremont Street Experience Limited
12 Liability Company[;] or permitted by LVMC 11.68.103;

13 (C) Parades;

14 (D) Unicycles, bicycles and other types of cycles, skateboards, roller skates, in-line
15 skates and shopping carts except as authorized by The Fremont Street Experience Limited Liability
16 Company in connection with special events and mall entertainment;

17 (E) Sleeping or camping;

18 (F) Littering;

19 (G) Sexually oriented businesses as described in Section 19.04.040; [of the Las
20 Vegas Municipal Code;]

21 (H) Notwithstanding LVMC 11.68.103, [The] the placement of any table, rack,
22 chair, box, cloth, stand, booth, container, structure or other object within the Pedestrian Mall, [for
23 purposes of solicitation,] except;

24 (1) As [as] necessary for emergency purposes, or the maintenance or repair
25 of the Pedestrian Mall; [, or as authorized]

26 (2) As authorized by The Fremont Street Experience Limited Liability
27 Company for special events, mall advertising, mall entertainment or mall vending or other commercial
28 and entertainment activities; or

1 (3) As permitted by LVMC 11.68.103.

2 (I) Glass and metal beverage containers including, but not limited to, bottles, jugs,
3 drinking glasses, aluminum cans and steel cans, during the hours of ten a.m. to 11:59 p.m. on
4 December 31st, and the hours of twelve a.m. to eight a.m. on January 1st of each year;

5 (J) Feeding birds; [and]

6 (K) Amplified sound which originates from within the Pedestrian Mall or from
7 properties or businesses abutting the boundaries of the Pedestrian Mall, except where expressly
8 approved by The Fremont Street Experience Limited Liability Company in conjunction with special
9 events, mall entertainment or venue rental;

10 (L) The launching or throwing of projectiles or other objects into or through the air,
11 except in connection with special events and mall entertainment conducted or authorized by The
12 Fremont Street Experience Limited Liability Company;

13 (M) The twirling of hoops (such as hula hoops) around the human body or portions
14 thereof, or the use of such hoops for recreation or entertainment, except in connection with special
15 events and mall entertainment conducted or authorized by The Fremont Street Experience Limited
16 Liability Company; and

17 [(K)] (N) Except as otherwise permitted by LVMC 11.68.103, [Solicitation, as defined
18 in LVMC 10.44.010.] solicitation (as defined in LVMC 10.44.010), leafleting and mall entertainment.

19 SECTION 4: Title 11, Chapter 68, of the Municipal Code of the City of Las Vegas,
20 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 103,
21 reading as follows:

22 **11.68.103:** (A) The following expressive conduct is permitted in any free expression zone:

23 (1) Solicitation, as defined in LVMC 10.44.010;

24 (2) Leafleting; and

25 (3) Mall entertainment.

26 (B) If any person or organization wishes to use a table in conjunction with activity
27 described in Subsection (A), such table must be provided by The Fremont Street Experience Limited
28 Liability Company. Tables will be provided on a first-come-first-serve basis and subject to available

1 space within the free expression zones.

2 SECTION 5: Title 11, Chapter 68, of the Municipal Code of the City of Las Vegas,
3 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 140,
4 reading as follows:

5 **11.68.140:** By virtue of its standing and authority under LVMC 11.68.060 and 11.68.070, The
6 Fremont Street Limited Liability Company may commence a civil action to enforce any of the
7 provisions contained in LVMC 11.68.100. This remedy shall supplement, and exist in addition to,
8 those contained in LVMC 11.68.130.

9 SECTION 6: If any section, subsection, subdivision, paragraph, sentence, clause or
10 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
11 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
12 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
13 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
14 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
15 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
16 invalid or ineffective.

17 SECTION 7: Whenever in this ordinance any act is prohibited or is made or declared
18 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
19 required or the failure to do any act is made or declared to be unlawful or an offense or a
20 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
21 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
22 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
23 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

24 ...

25 ...

26 ...

27 ...

28 ...

1 SECTION 8: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
3 1983 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this _____ day of _____, 2010.

5 APPROVED:

6
7 By _____
8 OSCAR B. GOODMAN, Mayor

9 ATTEST:

10 _____
11 BEVERLY K. BRIDGES, MMC
 City Clerk

12 APPROVED AS TO FORM:

13 *Val Heed* 6-28-10
14 Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2010, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2010, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____
9 VOTING "NAY": _____
10 ABSENT: _____

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APPROVED:

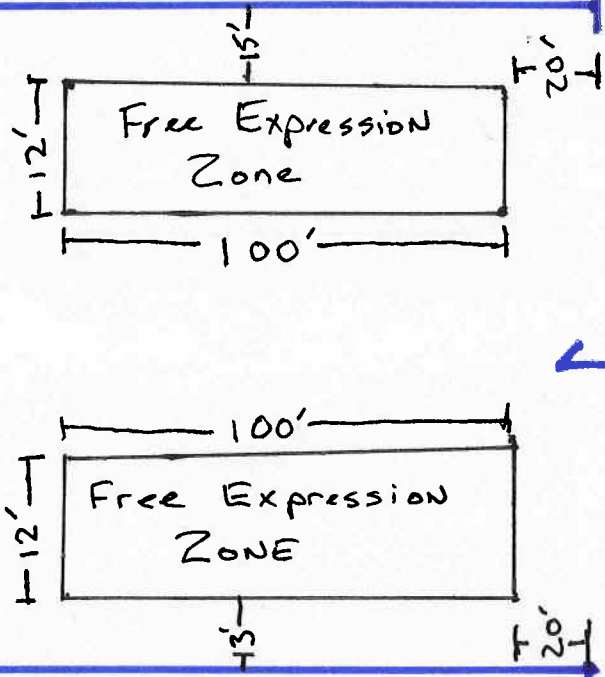
By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk



3RD STREET



← FREMONT STREET EXPERIENCE →

3RD ST.
STAGE

BUSINESS IMPACT STATEMENT

BILL NO. 2010-31

(Updates the regulations governing certain commercial, entertainment and solicitation activities within the Pedestrian Mall)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2010-31, that would update the regulations governing certain commercial, entertainment and solicitation activities within the Pedestrian Mall.

1. The following constitutes a description of the number of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Not applicable

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

None identified

Beneficial effects:

The addition of more certainty and structure and enforceability in the ordinance provisions

Direct effects:

None identified

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable. The ordinance is intended to address the results of litigation regarding the Pedestrian Mall, allowing for protected expression subject to reasonable "time, place and manner" regulations.

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains when such duplicative or more stringent provisions are necessary:

Not applicable

Date: June 28, 2010



July 20, 2010

City of Las Vegas Recommending Committee
Attn: Councilman Ricki Barlow, Councilman Stavros Anthony
400 Stewart Avenue
Las Vegas, NV 89101

Re: Bill No. 2010-31, Regulation of Expression within the Pedestrian Mall

Dear Recommending Committee:

The ACLU of Nevada strongly opposes the passage of Bill No. 2010-31, which amends Titles 10 and 11 of the Municipal Code of the City of Las Vegas to restrict expressive activity on the Fremont Street Pedestrian Mall. We are extremely disturbed by this bill's provisions, which plainly violate mall-goers' First Amendment rights to free speech and assembly. Passage of Bill No. 2010-31 would not merely infringe upon the constitutional rights of the thousands of individuals who visit the Pedestrian Mall daily; indeed, it would all but guarantee another round of costly, time-consuming litigation for the City of Las Vegas. In these tight times, Las Vegas taxpayers deserve better than to have their elected officials drag their city into a protracted, quixotic legal battle.

The ACLU of Nevada has been litigating against similar laws for over a decade, and the courts have repeatedly held both that Fremont Street is a public forum and that similar attempts to curb speech do not pass constitutional muster. *See A.C.L.U. of Nevada v. City of Las Vegas*, 33 F.3d 1092, 1106 (9th Cir. 2003) ("The Fremont Street Experience is a traditional public forum: its public forum status was not destroyed by its transformation, and its current characteristics are those of a public forum."). Because the Fremont Street Experience is a public forum, "the government must bear an extraordinarily heavy burden to regulate speech" in it. *Id.* at 1098. This is a burden that Bill 2010-31 cannot hope to meet.

Just like the prior iterations of free speech restrictions, Bill 2010-31 violates the First Amendment. The proponents of Bill 2010-31 claim that it imposes "reasonable time, place and manner" restrictions on protected expression. *See Business Impact Statement Bill No. 2010-31*. It is true that, "[t]he government may place reasonable time, place and manner restricts on speech" in public fora. *A.C.L.U. of Nevada v. City of Las Vegas*, 466 F.3d 784, 792 (9th Cir. 2006). However, merely calling an ordinance a "reasonable time, place and manner" restriction does not make it so. To satisfy the First Amendment, such a restriction must "meet three criteria: (1) it must be content-neutral; (2) it must be narrowly tailored to serve a significant governmental interest; and (3) it must leave open ample alternative channels for communication of the information." *Berger v. City of Seattle*, 569 F.3d 1029, 1036 (9th Cir. 2009) (en banc).

Bill 2010-31 may be content-neutral on its face, as it indiscriminately bans all solicitation, leafleting and performance in the vast majority of the Fremont Street Experience. However, this only illustrates its fatal overbreadth, and why it cannot be sufficiently narrowly tailored to pass constitutional muster.

Submitted At Meeting

Date 7/29/10 Item 8

"To be narrowly tailored ... the restriction may not burden substantially more speech than necessary." *A.C.L.U. of Nevada*, 466 F.3d at 796, n.13. Just as previous iterations of free speech restrictions targeted "a substantial amount of constitutionally protected speech that is not the source of the 'evils' it purports to combat," Bill 2010-31 targets so much speech on so much of the Fremont Street Experience that it cannot be considered "narrowly tailored." *Id.* Given Bill 2010-31's broad proscription of expressive activities, it could be said that the only "evil" it purports to combat is speech itself.

Additionally, Bill 2010-31 does not leave ample alternative channels for communication. It merely adds two side-by-side 12 by 100 foot "free expression zones" to the Pedestrian Mall, while prohibiting solicitation, leafleting and mall entertainment everywhere else. Given that the Fremont Street Experience space frame encompasses "an area of nearly 200,000 square feet,"¹ Bill 2010-31 bans protected expression in over 98% of the Pedestrian Mall. In fact, speakers who utilize the "free expression zone" will only reach an audience who happens to congregate near one side of 3rd Street. This falls well short of leaving "ample alternative channels for communication," as "the speaker is not permitted to reach the intended audience." *Berger*, 569 F.3d at 1049.

Proponents of Bill 2010-31 might compare it favorably to a provision in the Santa Monica Municipal Code that places various "time, place, and manner" restrictions on street performers throughout the city. *Compare* Santa Monica Municipal Code Chapter 6.112.² However, Chapter 6.112 is far less restrictive of speech than Bill 2010-31. First, the Santa Monica ordinance is silent on restricting solicitation and leafleting, while Bill 2010-31 would almost completely ban those two protected forms of speech. Additionally, the Santa Monica ordinance sets ten foot perimeters around bus stops, street corners, and business entrances around which street performers may not perform. *See* Santa Monica Municipal Code Chapter 6.112.030(a). These restrictions are specifically related to the significant government interests in maintaining public safety and access to businesses. As mentioned above, the restrictions found in Bill 2010-31 are not narrowly tailored toward any such end; they simply force those who wish to engage in speech into a tiny, out-of-the-way space.

We are currently in mediation over free speech issues on Fremont Street, supervised by U.S. Magistrate Judge Leavitt. While we cannot discuss the confidential settlement, passing new and unconstitutional codes to govern Fremont Street would unquestionably lead to renewed litigation.

Make no mistake; the ACLU of Nevada will fight tooth and nail to protect the constitutional rights of everyone who visits the Fremont Street Experience. When the courts inevitably hold Bill 2010-31 unconstitutional, the City will be obligated to pay not only its own attorney's fees, but the potential plaintiffs' attorney's fees as well.

For all these reasons, we urge that you do not recommend the passage of Bill 2010-31.

Sincerely,



Allen Lichtenstein
General Counsel

¹ *See* A2Z Las Vegas, *Fremont Street Experience Brings Downtown Las Vegas Into Next Century*, <http://www.a2zlasvegas.com/fse/fse01.html> (last visited July 17, 2010).

² Santa Monica Municipal Code Chapter 6.112 may also fail to pass constitutional muster. It, unlike the numerous attempts to restrict speech on Fremont Street, has never been tested in court.

Santa Monica Municipal Code

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For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) **Charge.** To require someone to pay a fee or to set, negotiate or establish a fee for a performance. Seeking voluntary contributions through passing around a hat, leaving open an instrument case or other receptacle, or soliciting donations after a performance is not a charge.

(b) **Handcrafts.** Objects made either by hand or with the help of devices used to shape or produce the objects through such methods as weaving, carving, stitching, sewing, lacing, and beading including, but not limited to, objects such as jewelry, pottery, silver work, leather goods, and trinkets. Handcrafts are not likely to communicate a message, idea, or concept to others, are often mass produced or produced with limited variation, and often have functional utility apart from any communicative value they might have. Handcrafts do not include visual art.

(c) **Performer.** An individual who performs in a public area, for the purpose of providing public entertainment.

(d) **Perform.** To engage in a performance including, but not limited to, the following activities: playing musical instruments, singing, dancing, acting, pantomiming, puppeteering, juggling, reciting, or creating visual art in its entirety. "Perform" shall not include: (1) the provision of personal services such as hair weaving or massage; (2) the application of substances to others' skin, including, but not limited to, paints, dyes, and inks; (3) the completion or other partial creation of visual art; (4) the creation of visual art which is mass produced or produced with limited variation or (5) the creation of handcrafts. This list of exclusions is not intended to be exhaustive.

(e) **Public Areas.** Sidewalks, parkways, playgrounds and all other public spaces located in the City.

(f) **The Pier.** The Santa Monica Pier, consisting of both the Newcomb Pier and the Municipal Pier, protruding from the Santa Monica State Beach at the southwesterly terminus of Colorado Avenue, and extending for approximately two thousand one hundred thirty-five feet into the Santa Monica Bay. The Pier is divided into three performance areas: the

Center Performance area, the Breezeway Performance area, and the General Performance area. The boundaries of each of these performance areas are delineated in Exhibit A to Resolution Number 9704 (CCS).

(g) **Sculpture.** A three dimensional work of art which is created through shaping solid material such as wood, stone, clay or metal by carving, modeling, or similar methods.

(h) **Third Street Promenade.** Third Street between the southeasterly line of Wilshire Boulevard and the northwesterly line of Arizona Avenue, and between the southeasterly line of Arizona Avenue and the northwesterly line of Santa Monica Boulevard and between the southeasterly line of Santa Monica Boulevard and the northwesterly line of Broadway.

(i) **Transit Mall.** The sidewalks on Santa Monica Boulevard and Broadway from the east side of Ocean Avenue to the west side of Fifth Street.

(j) **Visual Art.** Drawings and paintings, applied to paper, cardboard, canvas, or other similar medium

through the use of brush, pastel, crayon, pencil, or other similar object, and sculptures. (Added by Ord. No. 1888CCS § 1 (part), adopted 10/28/97; amended by Ord. No. 1949CCS § 4, adopted 7/20/99; Ord. No. 1959 CCS § 1, adopted 10/12/99; Ord. No. 1982CCS § 1, adopted 8/8/00; Ord. No. 2009CCS § 1, adopted 5/22/01; amended by Ord. No. 2028CCS § 1, adopted 11/13/01; Ord. No. 2047CCS § 1, adopted 7/9/02)

Santa Monica Municipal Code

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The City Council finds that the existence in the City of street performers provides a public amenity that enhances the character of the City and seeks to encourage such performances in a manner consistent with the overall public interest. The City Council also recognizes that street performers seek to and do draw crowds to their performance. This can create serious safety problems by impacting the ability of pedestrians to move safely on sidewalks and through cross walks and impeding the response time of safety personnel. It can also impact access to and egress from businesses. Cognizant that street performers are engaged in First Amendment activities, this chapter imposes reasonable time, place, and manner restrictions on street performers to the extent necessary to ensure the safety of performers, their audience, and the general public and to prevent unreasonable interference with residents' enjoyment of peace and quiet in their homes or the ability of businesses to operate and conduct their business. (Added by Ord. No. 1888CCS, § 1 (part), adopted 10/28/97)

Santa Monica Municipal Code

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In addition to the requirements of Sections 6.112.030 and 6.112.040, no performer shall perform in the Third Street Promenade or the Transit Mall outside of an enclosed building in violation of the following requirements:

(a) Except as provided in subsection (q) of Section 6.112.030, no performer shall perform except during the following time periods:

(1) Nine a.m. to eleven p.m. daily.

(2) Eleven p.m. on Friday and Saturday to one-thirty a.m. of the following day.

(b) No performer shall perform within sixty feet of any special event authorized by the City unless the special event encompasses one or more City blocks in which case the performance shall be conducted according to any administrative guidelines which shall be adopted by the City.

(c) No performer shall:

(1) Perform on the Third Street Promenade in any specific location or within one hundred twenty feet of that location as measured in a north/south direction, for more than two hours in any six hour period. The time required to set up and to remove any instruments, props, equipment, or other items shall be considered part of the performance for purposes of this subdivision and subdivision (2) of this subsection (c).

(2) Perform on the Third Street Promenade on an even hour at the same location that he/she was performing on the preceding hour, or within one hundred twenty feet of that location as measured in a north/south direction.

(3) Perform on the Transit Mall in any specific location or within one hundred twenty feet of that location as measured in an east/west direction, for more than two hours in any six hour period. The time required to set up and to remove any instruments, props, equipment, or other items shall be considered part of the performance for purposes of this subdivision and subdivision (4) of this subsection (c).

(4) Perform on the Transit Mall on an even hour at the same location that he/she was performing on the preceding hour, or within one hundred twenty feet of that location as measured in an east/west direction.

(5) Perform within ten feet of a vendor operating pursuant to or under the authority of an approved license agreement or within forty feet of any other vendor or performance.

(6) Perform on the Transit Mall at a distance greater than five feet from the outer wall of any building or any permanent extension of the building such as a planter box.

(7) Perform on the Santa Monica Boulevard segment of the Transit Mall within twenty feet of the Third Street Promenade. (Added by Ord. No. 1888CCS § 1 (part), adopted 10/28/97; amended by Ord. No. 1949CCS § 7, adopted 7/20/99; Ord. No. 1959CCS § 3, adopted 10/12/99; Ord. No. 2009CCS § 2, adopted 5/22/01; amended by Ord. No. 2028CCS § 2, adopted 11/13/01; Ord. No. 2047CCS § 4, adopted 7/9/02; Ord. No. 2075CCS § 2, adopted 5-13-03)

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(a) To receive a performance permit, a person must complete and file with the City a performance permit application on a form approved by the City. The applicant must provide the following information:

- (1) The applicant's name;
- (2) The applicant's address;
- (3) Proof of the identity of the applicant. This identification must contain a photograph of the applicant. Acceptable forms of identifications shall include, but not be limited to, a driver's license, student identification card, or passport;

- (4) A detailed description of the nature of the act to be performed;
- (5) A detailed description of any instrument(s) or prop(s) which will be used by the performer(s);
- (6) A minor under the age of sixteen shall provide a copy of an entertainment work permit issued to the minor by the Department of Industrial Relations of the State of California and shall identify the responsible adult(s) who will be with the minor at all times that the minor is performing;

- (b) The performance permit will be issued annually commencing on January 1st of each calendar year;
- (c) Upon receipt of a written application for a performance permit, a performance permit shall be approved within three business days of the filing of a fully completed application, unless one of the following findings is made:

- (1) The applicant has knowingly made a false, misleading, or fraudulent statement of fact to the City in the application process;

- (2) The application does not contain the information required by this Chapter;

- (3) The applicant has not satisfied the requirements of this Chapter.

- (d) In addition to requiring compliance with all provisions of this Chapter, the City may condition the approval of a performance permit on the applicant's compliance with other provisions of the City's Municipal Code which are applicable to the performance.

- (e) The City may revoke or suspend a performance permit upon the commission of the second violation either of this Chapter or of permit conditions within a six-month period. In any such case, the permit holder shall have the right to appeal from a decision of the City to revoke or suspend any permit in accordance with Chapter 6.16 of this Code. A performer's permit may be suspended for up to four months. If the performance permit of any performer is suspended, no new permit shall be issued during the period of suspension. Any revocation of a performer's permit shall be for six months unless the performer previously had a performance permit revoked and the new violations of this Chapter or permit conditions relate to public safety, in which case, the permit shall be revoked for twelve months. No new permit shall be issued during a revocation period. The City shall establish administrative guidelines to assist in the implementation of this Section.

- (f) No application for a performance permit or the renewal thereof shall be accepted unless the application is accompanied by a payment of a nonrefundable annual fee in an amount to be set by resolution adopted by the City Council.

- (g) The performance permit shall include a photograph of the performer, shall not be assignable or

transferable, and shall contain the permit number of the applicant and the year in which the permit expires. Each performer in a group shall obtain his/her own separate performance permit.

(h) A replacement performance permit may be obtained upon payment of a nonrefundable fee in an amount to be set by resolution adopted by the City Council.

(i) A performer shall clearly display his or her permit while performing, and shall allow inspection of the permit by any City police or fire official on request.

(j) The City Council may by resolution adjust the noise limitations established in this Chapter during public holidays.

(k) When an applicant requests a performance permit application, the City shall also give the applicant a document which summarizes the rules and regulations concerning street performances in the City. This document may be, but is not required to be, a copy of this Chapter. (Added by Ord. No. 1888CCS § 1 (part), adopted 10/28/97; amended by Ord. No. 1949CCS § 6, adopted 7/20/99; Ord. No. 2047CCS § 3, adopted 7/9/02; Ord. No. 2145CCS § 1, adopted 11/23/04)

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 **CodeAlert:** This item has been affected by [2304](#). Please refer to the [CodeAlert Ordinance List](#) for the most current provisions.

(a) Subject also to Sections 6.112.050 and 6.112.060, no performer may perform:

(1) Within ten feet of any bus stop;

(2) Within ten feet of any street corner or a marked pedestrian crosswalk;

(3) Within ten feet of the outer edge of any entrance of any business, including, but not limited to, doors; vestibules; driveways; outdoor dining area entries; and emergency exits, during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.

(b) No person may perform on the Third Street Promenade, the Pier, the Transit Mall, or any public sidewalk without first obtaining a performance permit issued by the City pursuant to Section 6.112.040.

(c) A performer and the performer's equipment may not block or obstruct the free and safe movement of pedestrians. If a sufficient crowd gathers to observe a performer such that the passage of the public through a public area is blocked or obstructed, a police officer or fire official may disperse that portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot conduct a performance in a location without blocking or obstructing the passage of the public, a police officer or fire official may cause the performer to leave the location or require that the performer relocate his/her equipment, but shall not prevent the performer from occupying another location in compliance with this Chapter.

(d) A performer who performs for a charge shall obtain a business license and be subject to all applicable provisions of Chapter 6.36. A performer who performs without charge shall not be required to obtain a vendor permit pursuant to Chapter 6.36 or a business license pursuant to Chapter 6.04.

(e) No performer shall construct, erect, or maintain any stage, platform, or similar structure for use during any performance unless the stage or platform:

(1) Is integral to the performance and the performance only takes place on the stage;

(2) Does not exceed four feet by four feet and one-quarter inch in height;

(3) Is removed from the public way when the performer is not performing;

(4) Has beveled edges.

(f) No performer shall use any knife, sword, torch, flame, axe, saw, or other object that can cause serious bodily injury to any person, or engage in any activity, including but not limited to, acrobatics, tumbling, or cycling, that can cause serious bodily injury to any person.

(g) No performer shall use any generator, wet cell battery with removable fill caps, or any other power source that poses a fire or public safety hazard. No performer shall connect or maintain an electrical cord to an adjacent building or to a City power source.

(h) No performer may litter his or her performance site.

(i) No performer shall utilize or prevent the public from utilizing any public benches, waste receptacles, or other street furniture during the performance.

(j) No minor under the age of sixteen can perform unless the minor is at all times accompanied by a responsible adult eighteen years of age or older, has obtained an entertainment work permit issued by the Department of Industrial Relations of the State of California and maintains the permit in his/her possession at the time of the performance.

(k) No performer shall place any object on a public sidewalk which causes less than a four-foot contiguous sidewalk width being kept clear for pedestrian passage.

(l) No performer shall perform with more instruments, props, equipment, merchandise, or other items than the performer can reasonably transport or remove at one time.

(m) No performer shall place his/her instruments, props, equipment, merchandise, or other items on a public sidewalk, public street, or public right-of-way for more than two hours without performing in accordance with the provisions of this Chapter.

(n) No performer shall leave his/her instruments, props, equipment, merchandise, or other items unattended.

(o) No performer shall perform in contravention of the allowable noise levels established by Chapter 4.12 and Chapter 6.116 of this Code.

(p) No performer shall block or obstruct a curb cut.

(q) The following formula establishes the special performance hours that apply during specified holidays on the Third Street Promenade, the Transit Mall, and the Pier:

(1) If the holiday follows a weekend and the next day is a workday, then the holiday shall be treated as if it were Sunday and the day preceding the holiday shall be treated as if it were Saturday.

(2) If the holiday precedes a weekend, then the holiday shall be treated as if it were Saturday and the preceding day shall be treated as if it were Friday.

(3) If the holiday occurs during midweek, and is surrounded by workdays, then the holiday shall be treated as if it were Sunday and the day preceding the holiday shall be treated as if it were Friday.

The following is a list of holidays which trigger the application of this subsection: New Year's Day, President's Day, Memorial Day, Independence Day, Columbus Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day. The City Council may by resolution add to this list of holidays.

(r) No performer shall perform outside designated performance zones on the Third Street Promenade and the Pier, as established by resolution of the City Council. (Added by Ord. No. 1888CCS § 1 (part), adopted 10/28/97; amended by Ord. No. 1949CCS § 5, adopted 7/20/99; Ord. No. 1959CCS § 2, adopted 10/12/99; Ord. No. 2047CCS § 2, adopted 7/9/02; Ord. No. 2075CCS § 1, adopted 5-13-03)

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No person authorized to vend pursuant to Sections 6.36.030(f) and 6.36.030(g), or any successor legislation, may on the Third Street Promenade or the Transit Mall:

(a) Vend on the Third Street Promenade in any specific location, or within one hundred twenty feet of that location as measured in a north/south direction, for more than a two-hour period in any six-hour period. The time required to set up and to remove equipment and material for vending shall be considered part of the time limit established by this subsection and subsection (b) of this Section;

(b) Vend on the Third Street Promenade on an even hour at the same location that he/she was vending on the preceding hour, or within one hundred twenty feet of that location as measured in a north/south direction;

(c) Vend on the Transit Mall in any specific location, or within one hundred twenty feet of that location as measured in an east/west direction, for more than a two-hour period in any six-hour period. The time required to set up and to remove equipment and material for vending shall be considered part of the time limit established by this subsection and subsection (d) of this Section;

(d) Vend on the Transit Mall on an even hour at the same location that he/she was vending on the preceding hour, or within one hundred twenty feet of that location as measured in an east/west direction;

(e) Vend within ten feet of a vendor operating pursuant to or under the authority of an approved license agreement or within forty feet of any other vendor or performer;

(f) Vend those items authorized by Section 6.36.030(g), or any successor legislation, unless that person is also performing pursuant to Chapter 6.112, the item vended is representative of the work being created during the performance, and no more than five such items are displayed at any one time. A performer/vendor may display these items from a table or cart, the performer/vendor's instrument case, or attached to an easel which is used as part of the performance. If a performer/vendor displays items from a table or cart, all other requirements specified in Section 6.116.010 shall apply except that the performer/vendor shall be limited to utilizing one table or cart of a size not larger than four feet in width by four feet in length by three feet in height.

(g) Vend on the Transit Mall at a distance greater than five feet from the outer wall of any building or any permanent extension of the building such as a planter box. (Added by Ord. No. 1949CCS § 12, adopted 7/20/99; amended by Ord. No. 1959CCS § 6, adopted 10/12/99; amended by Ord. No. 2028CCS § 7, adopted 11/13/02; Ord. No. 2047CCS § 9, adopted 7/9/02; Ord. No. 2075CCS § 7, adopted 5-13-03; Ord. No. 2145CCS § 6, adopted 11/23/04)

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2010-32 – Levies Assessment for Special Improvement District No. 1513 - Via Olivero Avenue and Valadez Street (East of Cimarron Road). Sponsored by: Step Requirement

Fiscal Impact

☐

No Impact

☐

Augmentation Required

☒

Budget Funds Available

Amount: \$218,356.75

Funding Source: Capital Projects Fund - Special Assessments

Dept./Division: Public Works/SID

PURPOSE/BACKGROUND:

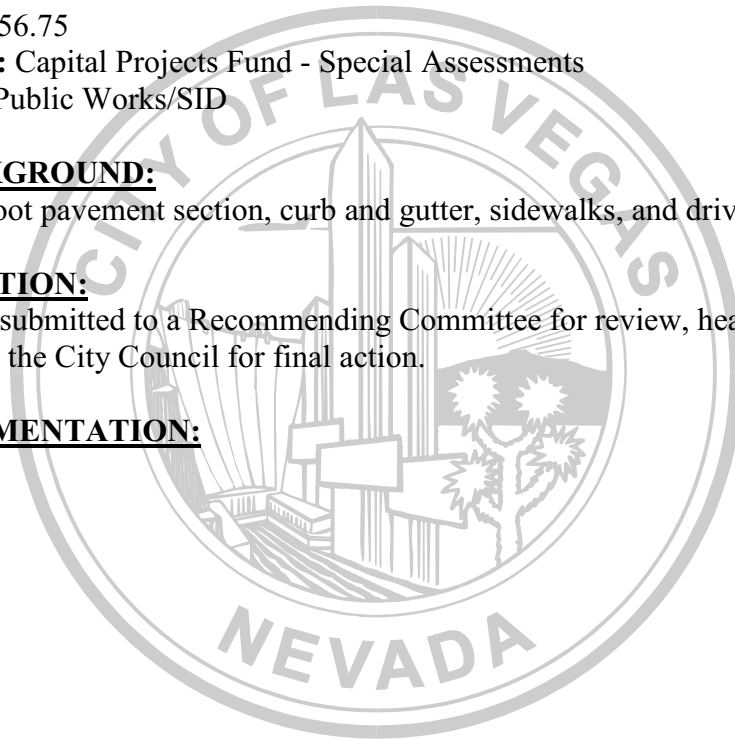
Installation of 33-foot pavement section, curb and gutter, sidewalks, and driveway approaches.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing, and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

Bill No. 2010-32



ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1513 – VIA OLIVERO AVENUE AND VALADEZ STREET (EAST OF CIMARRON ROAD); PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES OF SAID IMPROVEMENTS; ASSESSING A PORTION OF THE COST OF SAID IMPROVEMENTS AGAINST THE ASSESSABLE LOTS, TRACTS, AND PARCELS OF LAND BENEFITED BY SAID IMPROVEMENTS; RATIFYING, APPROVING AND CONFIRMING ALL ACTION PREVIOUSLY TAKEN; PRESCRIBING DETAILS IN CONNECTION THEREWITH.

Summary: Levy Ordinance

WHEREAS, the City Council of the City of Las Vegas (hereinafter the "City Council" and "City", respectively) in the County of Clark and State of Nevada, has heretofore, pursuant to the requisite preliminary proceedings, created Las Vegas, Nevada, Special Improvement District No. 1513 – Via Olivero Avenue And Valadez Street (East Of Cimarron Road) (hereinafter the "District"), for the purpose of acquiring and improving local improvements (hereinafter the "Project") and has provided that a portion of the entire cost and expense of the Project shall be paid by special assessments, according to benefits, levied against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, the District has been properly created by an ordinance heretofore adopted under the provisions of the Nevada Revised Statutes ("NRS") Chapter 271; and

WHEREAS, the City Council has heretofore determined that a portion of the cost and expense of the Project is to be paid by special assessments levied against the benefited lots, tracts and parcels of land in the District which the City Council has determined will receive special benefits (and corresponding market value increases) from the improvements of the Project; and

WHEREAS, in accordance with NRS 271.360, the City Council has heretofore determined, and does hereby declare, that the net cost of all improvements in the District (including all necessary incidentals which either have been or will be incurred in connection with the District) is \$227,512.75, of which, \$9,156.00 is available from other sources and of which \$218,356.75 is to be assessed upon the benefited lots, tracts and parcels of land in the District which the City Council has determined will receive special benefits (and corresponding market value increases) from the improvements of the Project; and

WHEREAS, the City Council, by resolution heretofore adopted and directed the City Engineer of the City (hereinafter the "City Engineer") to make out a final assessment roll; and

WHEREAS, after a determination of the portion of the costs of such work to be paid by the property specially benefited, the City Council, together with the City Engineer (with the assistance of the City Engineer Division) made out a final assessment roll containing, among other things, the names and addresses of the last known owners of the property to be assessed, a description of each lot, tract, or parcel of land to be assessed, and the amount of the assessment thereon. The City Engineer has reported the final assessment roll to the City Council and the City Engineer has filed the final assessment roll with the City Clerk; and

WHEREAS, the City Council thereupon fixed a time and place, to wit: Wednesday, July 7, 2010, at 1:00 p.m., at the Las Vegas City Council Chambers, 400 Stewart Avenue, in Las Vegas, Nevada, when all complaints, protests and objections to the final assessment roll, to the amount of the assessments, and to the regularity of the proceedings in making such assessments, by the owners of the property specially benefited by, and proposed to be assessed for, the improvements in the District, by any person interested, and by any parties aggrieved by such assessments, would be heard and considered by the City Council; and

WHEREAS, the City Engineer (with the assistance of City Engineer Division) has, in accordance with the provisions of law relating thereto, given the requisite legal notice by both mail and publication that complaints, protests and objections to assessments for improvements in the District should be filed with the City Clerk, and that the City Council would hear and consider any and all complaints, protests or objections on Wednesday, July 7, 2010, at 1:00 p.m., at the Las Vegas City Council Chambers, 400 Stewart Avenue, in Las Vegas, Nevada; and

WHEREAS, the City Council caused the final assessment roll ("Tabulation of Parcels") to be filed in the records of the office of the City Clerk on June 2, 2010. The City Clerk, by publication and by mail, gave the requisite notice of the time and place of such hearing, of the filing of the final assessment roll in her office, of the date of filing the same, and of the right of any such person to object specifically in writing and of the waiver of any objection in the absence of such objection; and

WHEREAS, at the time and place so designated, the City Council met to hear and determine all objections filed or made orally by any interested party; and

WHEREAS, all complaints, protests and objections, both written and oral, were found to be without sufficient merit and overruled, except as provided in the District No. 1513 Assessment Protest Resolution; and

WHEREAS, by the District No. 1513 Assessment Protest Resolution, the City Council modified, corrected and revised the final assessment roll and modified, corrected, revised and confirmed the final assessment roll to be in final form; and

WHEREAS, the assessments do not exceed the benefits to the property assessed nor that portion of the total cost of the Project payable from assessments as heretofore determined; and

WHEREAS, it is incumbent upon the City Council to provide when said assessments shall become due and penalties payable after any delinquency; and

WHEREAS, the City Council has determined, and does hereby determine, that the City shall pay the costs of the Project, in part, with funds derived from the levy of assessments, and the City will pay one-half or more of the costs of the Project with monies derived from other than the levy of special assessment, and that the exception provided by NRS 271.306(2) (a) does exist with respect to the Project; and

WHEREAS, the owners of certain property to be located within the proposed District have requested the City to include as part of the improvements to be constructed within the District, for such property, water and/or sewer improvements and such owners have executed an affidavit of waiver and consent (hereinafter the "Affidavit"), consenting to the construction of such improvements and the assessment of the cost of such improvements on such property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES ORDAIN AS FOLLOWS:

Section 1. This Ordinance shall be known as, and may be cited by, the short title "District No. 1513 Levy Ordinance" (hereinafter the "Ordinance").

Section 2. The City Council has heretofore determined, and does hereby declare, that each and every complaint, protest and objection made in connection with the District is without sufficient merit and the same be, and the same hereby is, overruled, and finally passed on by the City Council, except as provided in the District No. 1513 Assessment Protest Resolution.

Section 3. All actions, proceedings, matters and things heretofore taken, had and done by the City and the officers thereof (not inconsistent with the provisions of this Ordinance) concerning Special Improvement District No. 1513 – Via Olivero Avenue And Valadez Street (East Of Cimarron Road), including, but not limited to, the creation of the District, the acquisition of the Project, the amount of the construction contract, the levy of assessments for those purposes, the determination that the tracts in the District will receive special benefits and market value increases, and the validation and confirmation of the final assessment roll and the assessments therein, be, and the same hereby is, ratified, approved and confirmed.

Section 4. For the purpose of paying a portion of the costs and expenses of the Project, the amounts and assessments shown in the final assessment roll (as so filed, modified and confirmed) are hereby levied and assessed against the lots, tracts and parcels of land in the District (being all those specially benefited by said improvements) and described in the final assessment roll for the District, as filed in the office of the City Clerk on June 2, 2010, and as modified and confirmed by the District No. 1513 Assessment Protest Resolution duly adopted by the City Council on July 21, 2010.

Section 5. The assessments shall be due and payable at the office of the City Treasurer within 30 days after this Ordinance becomes effective, without interest and without demand, provided that all or any part of such assessments may, at the election of the owner, be paid in installments, with interest, as hereinafter provided. Failure to pay the whole assessment within said period of 30 days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installments, the amount of the assessment then unpaid. In case of such election to pay in installments, the unpaid assessments shall be payable in forty (40) substantially equal semiannual installments of principal and interest until paid in full, with interest in all cases on the unpaid and deferred installments of principal from the effective date of this Ordinance, at a rate or rates which shall not exceed by more than one percent (1%) the highest rate of interest on the assessment bonds issued for the District, both principal and interest on such assessments being payable semiannually at the office of the City Treasurer on April 1 and October 1 in each year, commencing on April 1, 2011. After the effective date of this Ordinance and before assessment bonds are issued (or if bonds are not issued), the City Director of Finance and Business Services shall fix the rate of interest on the unpaid and deferred

installments of assessments. If assessment bonds are sold the rate will not exceed by more than one percent (1%) the highest rate of interest on the assessment bonds for the district. The effective interest rate on the assessment bonds of the District will not exceed the statutory maximum rate, i.e., will not exceed by more than three percent (3%) the "Index of Twenty Bonds", which is most recently published before the bids for such bonds are received, or at the time a negotiated offer for the sale of such bonds is accepted. If assessment bonds are not issued, such rate will not exceed 9%. Failure to pay any installment, whether of principal or interest, when due, shall cause the whole amount of the unpaid principal to become due and payable immediately, at the option of the City. The exercise of said option to be indicated by the commencement of foreclosure proceedings by the City. The whole amount of the unpaid principal and accrued interest shall, after such delinquency, whether or not said option is exercised, bear penalty interest at the rate of two percent (2%) (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest, until the day of sale or until paid. At any time prior to the date of the sale, the owner may pay the amount of all delinquent installments originally becoming due on or before the date of said payment, with interest thereon, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property assessed and not in default as to any installment or payment may at any time (at the option of such owner); pay the whole or any semiannual installment of the unpaid principal with interest accruing thereon to the next interest payment date. If such prepayment takes place after September 21, 2010, but before the rate of interest on deferred installments of assessments is fixed by the City Director of Finance and Business Services such interest accruing thereon to the next interest payment date shall be calculated at seven and 40/100 percent (7.40%) per annum (i.e., the presumed rate of interest on the assessment bonds for the District plus one percent).

Pursuant to NRS 271.357 and NRS 271.360, any assessment against property for which an application for Hardship Determination has been approved by the City Council shall be postponed, but the owner shall make payments of interest on the unpaid balance of previous and current assessments at the same rate and terms as are established for other assessments in the manner provided. The assessment

shall remain postponed until the earlier of the following occurrences: (a) the property is sold or transferred to a person other than one to whom a Hardship Determination has been granted; (b) the term of the bonds expire; (c) the property owner's application for renewal of the Hardship Determination is disapproved; (d) the property owner fails to pay interest on the unpaid balance of assessments in a timely manner; or (e) the property owner pays all previous and current assessments. The owner shall also be subject to the lien as provided in Section 6 hereof.

Section 6. The amounts assessed shall be a lien upon the owner's lots, tracts and parcels of land from the effective date of this Ordinance (i.e. August 22, 2010) until paid. The lien shall be co-equal with the latest lien thereon to secure the payment of general taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general taxes). The sale of any such lot, tract or parcel of land for general or other taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor. Such amounts shall continue to be a lien upon the lots, tracts and parcels of land assessed until paid in full (including all principal and the interest thereon, and any penalties and collection costs).

Section 7. Should any lot, tract or parcel of land within the District be divided after the effective date of this Ordinance and before the collection of all the assessment installments, or if any property in the District makes a request to do so, the City Treasurer may apportion, combine or reapportion the uncollected amounts upon the several parts of land so divided or combined in accordance with the provisions of NRS 271.425. The report of such an apportionment, combination or reapportionment, when approved, shall be conclusive on all the parties, and all assessments thereafter made upon the tracts shall thereafter be according to the subdivision. The report, when approved, shall be recorded in the office of the County Recorder of Clark County, Nevada, together with a statement that the current payment status of any of the assessments may be obtained from the City Treasurer. Neither the failure to record the report, nor any defect in the report as recorded, shall affect the validity of the assessments, the lien for the payment thereof or the priority of that lien.

Section 8. In case any lot, tract or parcel of land so assessed is delinquent in the payment of the assessment or any installment of principal or interest, the City Council shall forthwith cause the owner of such delinquent property, if known, to be immediately notified in writing of such delinquency, by first-

class mail, postage prepaid, addressed to the addressee's last known address. If such delinquency is not paid within 10 days after such notice was given by deposit in the United States mail, then said assessment shall be enforced by the City Treasurer and other officers of the City, as provided in NRS 271.545 to NRS 271.630. Nothing herein shall be construed as preventing the City, at the direction of the governing body, from collecting any assessment by suit in the name of the governing body. The final assessment roll and the certified copy of this Ordinance shall be prima facie evidence of the regularity of the proceedings in making the assessment and of the right to recover judgment therefor. If a foreclosure is not promptly filed and prosecuted, then any bondholder may file and prosecute said foreclosure action in the name of the City. Any bondholder may also proceed against the City to protect and enforce the rights of the bondholders under this Ordinance by suit, action or special proceedings in equity or at law, either for the appointment of a receiver or for the specific performance of any provision contained herein or in an award of execution of any power herein granted for the enforcement of any proper, legal or equitable remedy as such bondholder or bondholders may deem most effective to protect and enforce the rights aforesaid. All such proceedings, at law or in equity, shall be instituted, had and maintained for the equal benefit of all owners of the bonds then outstanding. The failure of the bondholders to foreclose such delinquent assessments or to proceed against the City shall not relieve the City or any of its officers, agents or employees of any liability for its failure to foreclose such delinquent assessments.

Section 9. The City Clerk is hereby directed to deliver to the City Treasurer a copy of the final assessment roll containing a description of the lots, tracts and parcels of land being assessed, with the amount of the assessment levied upon each and the name and address of the owner or owners against whom the assessment was made. The final assessment roll is to be recorded in the office of the County Recorder together with the statement that the current payment status of any assessment may be obtained from the City Treasurer. The City Treasurer is additionally directed to collect the several sums so assessed as a tax upon the several tracts to which they were assessed.

Section 10. In accordance with NRS 271.405(7) the City Clerk shall give notice by publication in the Las Vegas Review-Journal, a newspaper of general circulation in the City, and such notice to be published at least once a week, for three consecutive publications, by three weekly insertions, the first such publication to be at least 15 days prior to the end of the 30-day period stating that said assessments

have been levied and are due and payable. The notice shall further state that payment must be made in full prior to the end of the 30 day period to avoid paying interest on the assessment. It shall not be necessary that the notice be published on the same day of the week, but not less than 14 days shall intervene between the first publication and the last publication. Service by publication shall be verified by the affidavit of the publisher and filed with the City Clerk of the City. In accordance with NRS 271.390(2), the City Clerk or Deputy City Clerk shall also give written notice of the levying of the assessments by mailing a copy of such notice, postage prepaid, at least 20 days prior to the end of said 30-day period, to the owner or owners of all property upon which the assessment was levied at his or her last known address or addresses. Proof of such mailing shall be made by the affidavit of the City Clerk or Deputy City Clerk and such proof shall be filed with the City Clerk. Failure to mail any such notice or notices shall not invalidate any assessment or any other proceedings concerning the District. Proof of the publication and proof of the mailing shall be maintained in the permanent records of the office of the City Clerk until all special assessments and special assessment bonds issued (if such special assessment bonds are hereafter issued) shall have been paid in full, both principal and interest, or until any claim is barred by an appropriate statute of limitations. The City Council hereby determines that the manner of giving notice herein provided by publication and by mail is reasonably calculated to inform the parties of the proceedings concerning the District and the levy of assessments which may directly and adversely affect their legally protected interests.

Section 11. The notice provided for in NRS 271.390(2) and NRS 271.405(7) and in Section 10 of this Ordinance shall be in substantially the following form:

(Form of Notice)

NOTICE TO PROPERTY OWNERS OF THE LEVY OF ASSESSMENTS FOR
IMPROVEMENTS IN CITY OF LAS VEGAS, NEVADA SPECIAL IMPROVEMENT
DISTRICT NO. 1513 – VIA OLIVERO AVENUE AND VALADEZ STREET (EAST OF
CIMARRON ROAD)

NOTICE IS HEREBY GIVEN to the owners of all property upon which an assessment has been levied, and other interested persons, that District No. 1513 Levy Ordinance (hereinafter the "Levy Ordinance") was duly passed, adopted, signed and approved on August 18, 2010. The Levy Ordinance levied and assessed a portion of the cost and expense of such improvements against the lots, tracts and parcels of land specially benefited by the local improvements in what is commonly designated as "City of Las Vegas, Nevada, Special Improvement District No. 1513 – Via Olivero Avenue And Valadez Street (East Of Cimarron Road)," (said lots, tracts and parcels of land being more specifically described in the final assessment roll designated in the ordinance).

Assessments are due and payable at the office of the City Treasurer, in Las Vegas, Nevada, on or before September 21, 2010, being 30 days after the effective date of the Levy Ordinance, without interest and without demand, provided that all, or any part of such assessments may, at the election of the owner, be paid in installments, with interest as hereinafter provided. Failure to pay the whole assessment within the 30-day period will be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay the unpaid assessment in installments. In case of such election to pay in installments, the unpaid assessments will be payable in forty (40) substantially equal semi-annual installments of principal and interest until paid in full, with interest in all cases on the unpaid and deferred installments of principal from August 22, 2010, (i.e., the effective date of the Levy Ordinance) both principal and interest being payable semi-annually at the office of the City Treasurer, Las Vegas, Nevada, on April 1 and October 1 in each year, commencing on April 1, 2011. After the effective date of the Levy Ordinance and before assessment bonds are issued (or if bonds are not issued), the City Director of Finance and Business Services shall fix the rate of interest on the unpaid and deferred installments of assessments. If assessment bonds are sold, the rate will not exceed by more than one percent (1%) the highest rate of interest on the assessment bonds issued for the District. The effective interest rate on the assessment bonds of the District will not exceed the statutory maximum rate, i.e., will

not exceed by more than three percent (3%) the "Index of Twenty Bonds", which is most recently published before the bids for such bonds are received, or at the time a negotiated offer for the sale of such bonds is accepted. If assessment bonds are not issued, such rate shall not exceed 9%. Failure to pay any assessment installment, whether principal or interest, when due will cause the whole of the unpaid principal of such assessment to become due and payable immediately at the City's option, and the whole amount of the unpaid principal and accrued interest will, after such delinquency, whether or not the City's option is exercised, bear penalty interest at the rate of two percent (2%) (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest, until the day of sale or until paid. At any time prior to the date of the sale, the owner may pay the amount of all delinquent installments originally becoming due on or before the date of payment, with the interest thereon and all penalties accrued, and will thereupon be restored the right, thereafter, to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any assessment installment or payment may, at any time, pay the whole or any semi-annual installment of the unpaid principal with interest accruing thereon to the next interest payment date. If such prepayment takes place after September 21, 2010, but before the rate of interest on deferred installments of assessments is fixed by the City Director of Finance and Business Services, such interest accruing thereon to the next interest payment date shall be calculated at seven and 40/100 percent (7.40%) per annum (i.e., the presumed rate of interest on the assessment bonds for the District plus one percent).

Pursuant to NRS 271.357 and NRS 271.360, any assessment against property for which an application for Hardship Determination has been approved by the City Council shall be postponed, but the owner shall make payments of interest on the unpaid balance of previous and current assessments at the same rate and terms as are established for other assessments in the manner provided. The assessment shall remain postponed until the earlier of the following occurrences: (a) the property is sold or transferred to a person other than one to whom a Hardship Determination has been granted; (b) the term of the bonds expires; (c) the property owner's application for renewal of a Hardship Determination is disapproved; (d) the property owner fails to pay interest on the unpaid balance of assessments in a

timely manner; or (e) the property owner pays all previous and current assessments. The owner shall also be subject to the lien as provided in Section 6 hereof.

Pursuant to NRS 271.395, within 15 days after the effective date of the Levy Ordinance, any person who has filed a complaint, protest or objection in writing, pursuant to NRS 271.380, shall have the right to commence an action or suit in any court of competent jurisdiction to correct or set aside such determination. Thereafter, all actions or suits attacking the regularity, validity and correctness of the proceedings, of the final assessment roll, of each assessment contained therein, of the amount of special benefits and market value increases, and of the amount thereof levied on each tract, including, without limiting the generality of the foregoing, the defense of confiscation shall be perpetually barred.

The amounts assessed as aforesaid constitute a lien upon said lots, tracts and parcels of land from August 22, 2010 (i.e., the effective date of the Levy Ordinance), which lien shall be co-equal with the latest lien thereon to secure the payment of general taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general taxes). The sale of any such lot, tract or parcel of land for general taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor.

Dated this August 18, 2010.

BEVERLY K. BRIDGES, MMC
City Clerk

(End of Form of Notice)

Section 12. The officers of the City be, and they hereby are, authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, the preparation of all necessary documents, legal proceedings, the recording of the final assessment roll, and other items necessary or desirable for the completion of the levying of the assessments of the District and the issuance of the bonds therefor.

Section 13. All ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 14. That in accordance with Section 2.110 of the City Charter, this Ordinance when first proposed is to be read by title to the City Council, immediately after which an adequate number of copies of the proposed Ordinance are to be deposited with the office of the City Clerk for public examination and distribution upon request; thereafter, the City Clerk is authorized and directed to give notice of the deposit together with the title of the Ordinance by publication at least once in the Las Vegas Review-Journal, i.e., a newspaper published and having general circulation in the City, at least ten (10) days before the adoption of the Ordinance, i.e., at least ten (10) days before August 18, 2010, such publication to be in substantially the following form:

(FORM OF PUBLICATION OF NOTICE OF DEPOSIT OF AN ORDINANCE)

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1513 – VIA OLIVERO AVENUE AND VALADEZ STREET (EAST OF CIMARRON ROAD); PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES OF SAID IMPROVEMENTS; ASSESSING A PORTION OF THE COST OF SAID IMPROVEMENTS AGAINST THE ASSESSABLE LOTS, TRACTS, AND PARCELS OF LAND BENEFITED BY SAID IMPROVEMENTS; RATIFYING, APPROVING AND CONFIRMING ALL ACTION PREVIOUSLY TAKEN; PRESCRIBING DETAILS IN CONNECTION THEREWITH.

PUBLIC NOTICE IS HEREBY GIVEN that an adequate number of typewritten copies of the above-entitled proposed Ordinance were filed with and are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, 400 Stewart Avenue, Las Vegas, Nevada, and that such ordinance was proposed on the 21st day of July, 2010, and will be considered for adoption at the regular meeting of the City Council of the City of Las Vegas on the 18th day of August, 2010.

/s/ Beverly K. Bridges
City Clerk

(End of Form)

Section 15. That this Ordinance shall be in effect on the day after its publication, as hereinafter provided. After this Ordinance is signed by the Mayor and attested and sealed by the City Clerk, this Ordinance shall be published by title only, together with the names of the City Council voting for or against its passage, and with a statement that typewritten copies of said Ordinance are available for inspection by all interested parties at the office of the City Clerk, such publication to be made in the Las Vegas Review-Journal, a newspaper published and having general circulation in the City, at least once, pursuant to Section 2.110 of the Charter and all laws thereunto enabling, such publication is to be in substantially the following form:

(Form for Publication After Final Adoption of Ordinance)

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1513 – VIA OLIVERO AVENUE AND VALADEZ STREET (EAST OF CIMARRON ROAD); PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES OF SAID IMPROVEMENTS; ASSESSING A PORTION OF THE COST OF SAID IMPROVEMENTS AGAINST THE ASSESSABLE LOTS, TRACTS, AND PARCELS OF LAND BENEFITED BY SAID IMPROVEMENTS; RATIFYING, APPROVING AND CONFIRMING ALL ACTION PREVIOUSLY TAKEN; PRESCRIBING DETAILS IN CONNECTION THEREWITH.

PUBLIC NOTICE IS HEREBY GIVEN that the above Ordinance was proposed on July 21, 2010, and was passed at a regular meeting held on August 18, 2010, by the following vote of the City Council of the City of Las Vegas, Nevada:

Those Voting Aye:

Oscar B. Goodman
Gary Reese
Steve Wolfson
Lois Tarkanian
Steven D. Ross
Ricki Y. Barlow
Stavros S. Anthony

Those Voting Nay:

Those Absent:

This Ordinance shall be in full force and effect from and after August 22, 2010, i.e., the day after its publication by title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada, has caused this Ordinance to be published by title only.

This _____ day of _____, 2010.

/s/ OSCAR B. GOODMAN
Mayor
City of Las Vegas, Nevada

(SEAL)

Attest:
/s/ BEVERLY K. BRIDGES
City Clerk

Section 16. That if any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Introduced July 21, 2010, PASSED, ADOPTED AND APPROVED August 18, 2010.

OSCAR B. GOODMAN, Mayor

Attest:

BEVERLY K. BRIDGES, MMC
City Clerk

Approved as to Form:

7/1/16 *Val Sted for Bryan Scott*
Date Assistant City Attorney

STATE OF NEVADA)
)
COUNTY OF CLARK) SS
)
CITY OF LAS VEGAS)

I, Beverly K. Bridges, MMC, the duly chosen, qualified City Clerk of the City of Las Vegas (hereinafter the "City"), in the State of Nevada, do hereby certify:

1. The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced at the meeting of the City Council on July 21, 2010, and finally adopted and approved on August 18, 2010.

2. The following members of the City Council were present at the July 21, 2010, Council meeting:

Mayor:	Oscar B. Goodman
Councilmembers:	Gary Reese
	Steve Wolfson
	Lois Tarkanian
	Steven D. Ross
	Ricki Y. Barlow
	Stavros S. Anthony

3. The foregoing Ordinance was first proposed and read by title to the City Council on July 21, 2010, and referred to a committee composed of _____ and _____ for recommendation; thereafter the said committee reported favorably on said Ordinance on August 18, 2010, which was a regular meeting of said City Council; that at said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The following members of the City Council were present at the August 18, 2010, meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:	Oscar B. Goodman
	Gary Reese
	Steve Wolfson
	Lois Tarkanian
	Steven D. Ross
	Ricki Y. Barlow
	Stavros S. Anthony

Those Voting Nay:	_____

Those Absent:	_____

4. The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself, as Clerk of the City, and sealed with the seal of the City, and has been recorded in the journal of the City Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed.

5. All members of the City Council were given due and proper notice of the meetings held on July 21, 2010, and August 18, 2010. Pursuant to § 241.020, Nevada Revised Statutes, written notice of the meetings was given no later than 9:00 a.m. on the third working day before the meetings, including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice by 9:00 a.m. at least three (3) working days before the meetings at the principal office of the City Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three (3) other separate, prominent places within the jurisdiction of the City Council, to wit:

- (i) City Clerk's Bulletin Board
City Hall Plaza
2nd Floor Skybridge
Las Vegas, Nevada
- (ii) Bulletin Board
City Hall Plaza (next door to Metro Records)
Las Vegas, Nevada
- (iii) Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, Nevada
- (iv) Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada
- (v) Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada
- (vi) The City of Las Vegas website

; and

(b) By mailing a copy of the notice by 9:00 a.m. no later than three (3) working days before the meetings to each person, if any, who has requested notice of the meetings of the City Council in the same manner in which notice is required to be mailed to a member of the City Council.

6. A copy of such notice so given of the meeting of the City Council on July 21, 2010, is attached to this certificate as Exhibit A and a copy of the notice so given of the meeting of the City Council on August 18, 2010, is attached to this certificate as Exhibit B.

7. Upon request, the governing body provides, at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the members of the governing body for an item on the agenda, except for certain confidential materials and materials pertaining to the closed meetings, as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand on this August 18, 2010.

BEVERLY K. BRIDGES, MMC
City Clerk

(SEAL)

EXHIBIT A

(Attach Copy of Notice of July 21, 2010 Meeting)

EXHIBIT B

(Attach Copy of Notice of August 18, 2010 Meeting)

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2010-33 – Adopts the most recent versions of the Local Government Records Program Manual and minimum records retention schedules for local governments in Nevada, and repeals LVMC 2.52.040 (relating to the minutes of City boards and commissions). Proposed by: Beverly K. Bridges, City Clerk

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will adopt the most recent versions of the Local Government Records Program Manual and minimum records retention schedules for local governments in Nevada. It will also repeal an obsolete Municipal Code provision relating to the minutes of City boards and commissions, which are governed by State law.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2010-33
2. Business Impact Statement

1 **BILL NO. 2010-33**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE RELATING TO RECORDS; ADOPTING THE MOST RECENT VERSIONS OF
4 THE LOCAL GOVERNMENT RECORDS PROGRAM MANUAL AND MINIMUM RECORDS
5 RETENTION SCHEDULES FOR LOCAL GOVERNMENTS IN NEVADA; REPEALING
SECTION 2.52.040 OF THE MUNICIPAL CODE (RELATING TO THE MINUTES OF CITY
BOARDS AND COMMISSIONS); AND PROVIDING FOR OTHER RELATED MATTERS.

6 Proposed by: Beverly K. Bridges, City Clerk

Summary: Adopts the most recent versions of
the Local Government Records Program Manual
and minimum records retention schedules for
local governments in Nevada, and repeals
LVMC 2.52.040 (relating to the minutes of City
boards and commissions).

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10 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
11 AS FOLLOWS:

12 SECTION 1: Title 2, Chapter 60, Section 70, of the Municipal Code of the City of
13 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 **2.60.070:** (A) A record may be disposed of only in accordance with the records retention
15 schedule that has been approved for records of that type.

16 (B) The following documents are hereby adopted by the City:

17 (1) "Nevada Local Government Records Program Manual," as adopted by
18 the Nevada State Library and Archives Division on June 26, 2007[.], and subsequently amended on
19 February 9, 2010; and

20 (2) "Local Government Records Retention Schedules," as adopted by the
21 Nevada State Library and Archives Division on June 26, 2007, and as subsequently amended on
22 August 28, 2008[.], and February 9, 2010.

23 ➡ The respective retention periods that are established in those documents shall be the minimum
24 periods for which the records of the City, other than judicial records and other documents of the
25 Municipal Court, must be retained.

26 (C) The City may establish periods of retention longer than those designated by
27 the State for any particular class of record. Further, the City may establish retention schedules for any
28 record not addressed by the State's schedules. Any schedule proposed to be established pursuant to

1 this Subsection (C) shall be submitted to the Records Management Committee for its approval and,
2 after such schedule has received the approval of the Records Management Committee, the City Clerk
3 shall submit the same to the City Council for its approval. Such approval shall be accomplished by
4 ordinance.

5 (D) The disposition of judicial records and other documents of the Municipal Court
6 shall be governed by a records retention schedule that is approved by the Judges of the Municipal
7 Court by a court rule that is adopted in accordance with the rules of the Nevada Supreme Court. Such
8 schedule shall become effective upon its approval by a majority of the Judges of the Municipal Court
9 and shall establish a system of records management for Municipal Court to be implemented by the
10 Court Administrator.

11 SECTION 2: Title 2, Chapter 52, Section 40, of the Municipal Code of the City of Las
12 Vegas, Nevada, 1983 Edition, is hereby repealed in its entirety.

13 SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or
14 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
15 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
16 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
17 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
18 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
19 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
20 invalid or ineffective.

21 ...

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SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2010.

APPROVED:

By OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Vulthuis 7-7-10
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2010, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2010, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

12 APPROVED:

13

14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

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17 BEVERLY K. BRIDGES, MMC
City Clerk

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BUSINESS IMPACT STATEMENT

BILL NO. 2010-33

Adopts the most recent versions of the Local Government Records Program Manual and minimum records retention schedules for local governments in Nevada, and repeals LVMC 2.52.040 (relating to the minutes of City boards and commissions)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2010-33, that would adopt the most recent versions of the Local Government Records Program Manual and minimum records retention schedules for local governments in Nevada, and repeal LVMC 2.52.040 (relating to the minutes of City boards and commissions)

1. The following constitutes a description of the number of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Not applicable

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

None

Beneficial effects:

None

Direct effects:

None

Indirect effects:

None

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains when such duplicative or more stringent provisions are necessary:

Not applicable

Date: July 7, 2010

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CITIZENS PARTICIPATION: PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE COMMITTEE. NO SUBJECT MAY BE ACTED UPON BY THE COMMITTEE UNLESS THAT SUBJECT IS ON THE AGENDA AND IS SCHEDULED FOR ACTION. IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 3, 2010

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

☐ Consent ☒ Discussion

SUBJECT:
ADJOURNMENT

