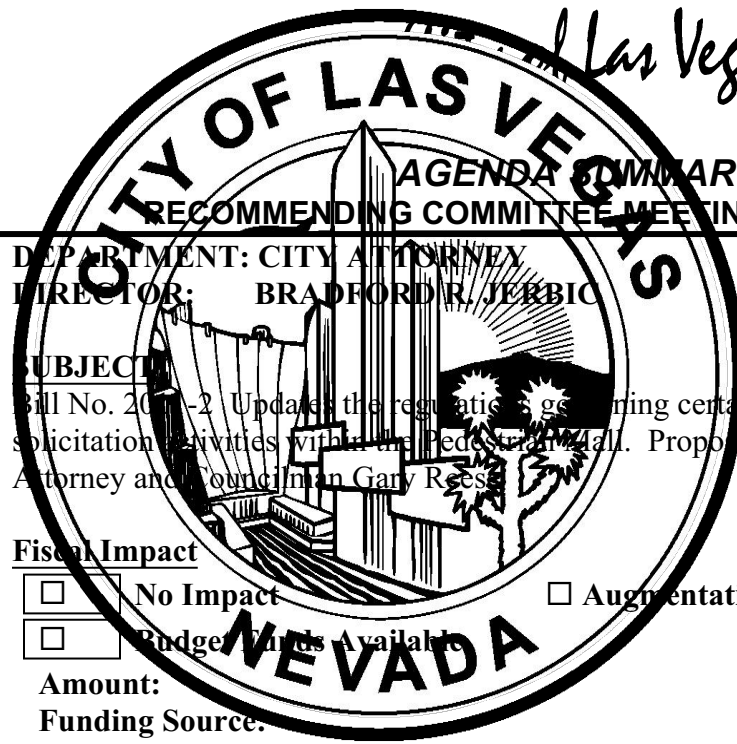




Las Vegas

Agenda Item No.: 5.

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: JANUARY 18, 2011

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

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

Fiscal Impact

☐

No Impact

☐ Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

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

RECOMMENDATION:

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. 2011-2
2. Business Impact Statement
3. Submitted after Meeting Bill No. 2011-2 First Amendment

Motion made by STAVROS S. ANTHONY to Approve as Do Pass with a First Amendment

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, STAVROS S. ANTHONY; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

COUNCILMAN BARLOW declared the Public Hearing open.

CITY ATTORNEY BRAD JERBIC explained that this bill would replace a bill that is on the 2/2/2011 City Council agenda. Staff has worked with representatives from the American Civil Liberties Union (ACLU) and believes that this replacement bill is one that avoids litigation as well as offers up a proper balance between regulating commercial activity in the Pedestrian Mall while allowing an individual to express their First Amendment rights.

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CITY ATTORNEY JERBIC pointed out that the original bill created free expression zones along 3rd Street. Taking into account federal court rulings and associated findings, it was determined that it is difficult for cities to establish a strict regulation for certain types of activity and time, place and manner restrictions on expressive activity within the Pedestrian Mall. Because this area of law is one that constantly changes and has potential for litigation, staff preferred amending this issue within the bill.

Referring to the First Amendment document provided as backup, CITY ATTORNEY JERBIC reviewed the proposed changes within the amended bill. He also read the proposed definition of solicitation and described for the Committee solicitation versus coercive solicitation and commercial versus non-commercial performers. Ten feet will be the required distance from the perimeter of any outdoor setting. CHIEF DEPUTY CITY ATTORNEY STEED confirmed that 20 feet is still the required distance from fire lanes and crosswalks. Tables will still be allowed in the Pedestrian Mall for distribution purposes but will be limited to an area of three feet by three feet in size. Objects that would impede beyond this area and reserving spaces would be prohibited. The Committee discussed with CITY ATTORNEY JERBIC the allowed area for street performers and items that would and would not be permissible as part of an individual's performance. Amplified sound is permissible up to 70 decibels and equipment within 4.5 feet in perimeter must be an integral part of one's performance. However, such sound levels are not permitted during lighting shows or during a special event when the Pedestrian Mall is closed to the public. Objects 4.5 feet or less in diameter are permitted. Animals are not allowed in the Pedestrian Mall unless it is part of one's performance or a Seeing Eye dog.

After further discussion and citing examples, CITY ATTORNEY JERBIC stressed that written permission from the Fremont Street Experience is required prior to application for a business license.

ALLEN LICHTENSTEIN, ACLU, commended CITY ATTORNEY JERBIC and others for their time and efforts and expressed support for the proposed amendment. He echoed CITY ATTORNEY JERBIC's comments and agreed that this amendment is workable and better for the Fremont Street Experience. He also supported the amendment dealing with animals.

DEPUTY CITY MANAGER ORLANDO SANCHEZ confirmed with CITY ATTORNEY JERBIC that the Las Vegas Metropolitan Police Department has the authority to enforce this ordinance if approved. The Fremont Street Experience cannot enforce such an ordinance; however, they have the discretion to assist in reporting deviant behavior and/or complaints. CITY ATTORNEY JERBIC offered to discuss, in detail, additional information with DEPUTY CITY MANAGER SANCHEZ should he desire.

MR. LICHTENSTEIN believed that it was important for security personnel to be informed, as they would have guidance beforehand and street performers would be educated as well. He pointed out that attorneys for the Fremont Street Experience were also part of the negotiations, so they would be responsible for training their staff accordingly.

COUNCILMAN BARLOW commended the City Attorneys Office and the ACLU for reaching a compromise and what appears to be a delicate balance. This is government at its best in protecting First Amendment rights/civil rights.

RECOMMENDING COMMITTEE MEETING OF: JANUARY 18, 2011

CITY ATTORNEY JERBIC informed COUNCILMAN ANTHONY that discussions began approximately six months ago on this particular item. MR. LICHTENSTEIN added that the ACLU did not file a lawsuit until 1997. The Councilman expressed appreciation for the work done.

COUNCILMAN BARLOW reiterated that this bill, if approved, would be eligible for adoption on 2/2/2011.

COUNCILMAN BARLOW declared the Public Hearing closed.

