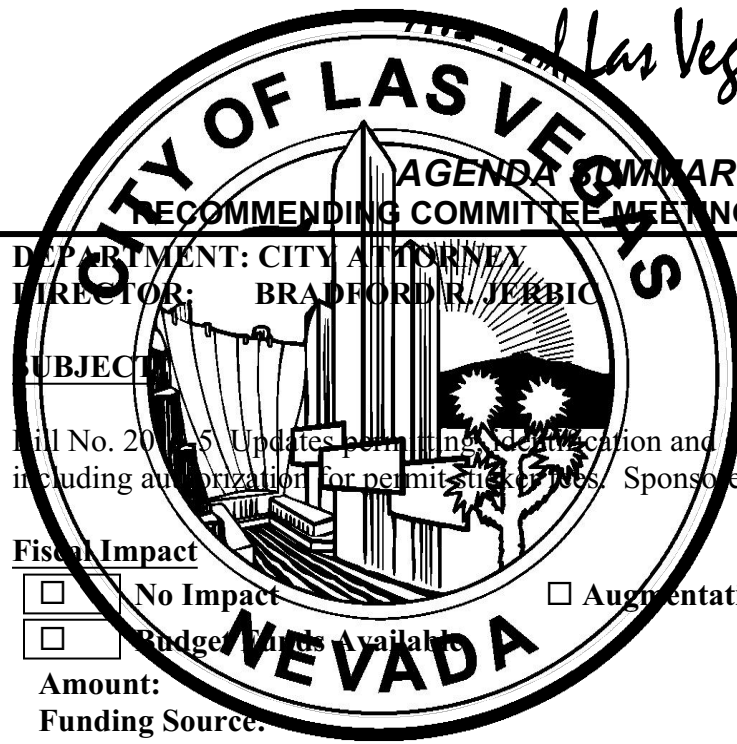




Las Vegas

Agenda Item No.: 3.

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: FEBRUARY 15, 2011

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-5 Updates permitting, identification and securing requirements for news racks, including authorization for permit sticker fees. Sponsored by: Councilman Steven D. Ross

Fiscal Impact

☐

No Impact

☐ Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will update the permitting and identification requirements for news racks. The bill includes authorization for permit sticker fees in the amount of \$50 and an application fee in the amount of \$2. The bill also will allow news racks to be bolted to sidewalks if done in an approved manner.

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. 2011-5
2. Business Impact Statement

Motion made by STAVROS S. ANTHONY to Approve as Do Pass

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.

JORGE CERVANTES, Director of Public Works, explained that this bill is a follow-up to a budget-hearing item presented to Council in May 2010, to help enhance revenue. This bill will allow the City to recover some of the costs involved with news racks by requiring a \$50 annual fee for permitting news racks, along with a \$2 application fee. There are approximately 2,000 news racks, and the proposed fees would cover approximately 85 percent of the costs incurred by the City for staff services.

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COUNCILMAN BARLOW questioned the cost to the City that is currently not being recovered. MR. CERVANTES stated that staff goes through a grading process of the news racks every year, at which time all the permits are renewed. Staff also monitors the racks throughout the year to ensure code compliance. If non-compliant racks are not brought to code within a certain period, the racks have to be picked up and stored at a service yard. MARK VINCENT, Chief Financial Officer, rejoined that the total yearly cost to the City for news racks is approximately \$122,000, and the proposed fees will allow for the recovery of \$104,000 of that cost.

COUNCILMAN BARLOW asked who is liable for non-compliant news racks, specifically the broken down ones that encroach into the right-of-way. MR. CERVANTES replied that the owners are responsible for maintaining their news racks and are required to carry insurance. This bill includes language that allows racks to be anchored and secure without damaging the sidewalks.

ATTORNEY JOEL SCHWARZ, Gordon Silver Attorneys at Law, appeared on behalf of Southwest Advertising and indicated that his client is in favor of securing the racks. However, he regarded the proposed fees as an infringement to the First Amendment right of free speech. Placing added fees is considered putting a restraint on free speech. He pointed out that the City already charges a \$200 annual licensing fee for each news rack, so, essentially, the City would be double taxing the publishers with the proposed fees. He alleged that the \$50 is excessive when other cities throughout the country are charging less, even San Francisco, California, only charges a \$30 renewal fee. Clark County previously proposed a fee increase, which was reduced from its original amount. MR. SCHWARZ cautioned that most permit holders might be inclined to pull their news racks and turn to handbilling to save money. MR. CERVANTES clarified that the County is currently charging \$50, a reduced amount from the original \$100 fee it was proposing.

COUNCILMAN BARLOW asked MR. CERVANTES if it is possible to outlaw racks on public sidewalks, to which MR. CERVANTES replied that the City cannot regulate the content, only the racks. ATTORNEY SCHWARZ pointed out that case law would be against a ban on racks.

COUNCILMAN BARLOW commented that even with the proposed fee, it would be cheaper to pay for racks than to pay people to pass out handbills.

KATHY CRAWFORD, President, Southwest Advertising, stated that during an informal workshop with CHIEF DEPUTY CITY ATTORNEY VAL STEED and O.C. WHITE, Public Works, EDDIE MUNOZ attended, and he was against the \$50 fee because he felt it would run him out of business.

COUNCILMAN ANTHONY expressed concern about the City paying \$120,000 to police and maintain the racks. MS. CRAWFORD agreed that the owners should be responsible, but noted that there are some people that are illegally putting up racks. She suggested charging between \$10 and \$25 would not be unreasonable, but \$50 is too much.

Regarding illegal racks, COUNCILMAN BARLOW asked if a sticker could be placed on the racks to prove licensure. MR. CERVANTES responded that it is already a part of the process.

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Racks without a sticker are impounded at a cost of \$75. He pointed out that the \$122,000 annual cost to the City does not include the cost of Code Enforcement personnel to do massive sweeps.

ATTORNEY SCHWARZ reiterated that the law on First Amendment rights is clear that the price society pays for free speech is cheap. COUNCILMAN ANTHONY interjected that he never brought up the content, but the fact remains that maintaining the racks cost the taxpayers a lot of money. ATTORNEY SCHWARZ stated that a significant number of news rack owners will remain in business if the cost is not too high, but many will pull out of business and thus cause a decrease in revenue to the City. COUNCILMAN BARLOW stressed that many people would rather not have the racks, even to the detriment of losing the revenue. MARK VINCENT pointed out that handbillers also have to be licensed.

COUNCILMAN BARLOW declared the Public Hearing closed.

