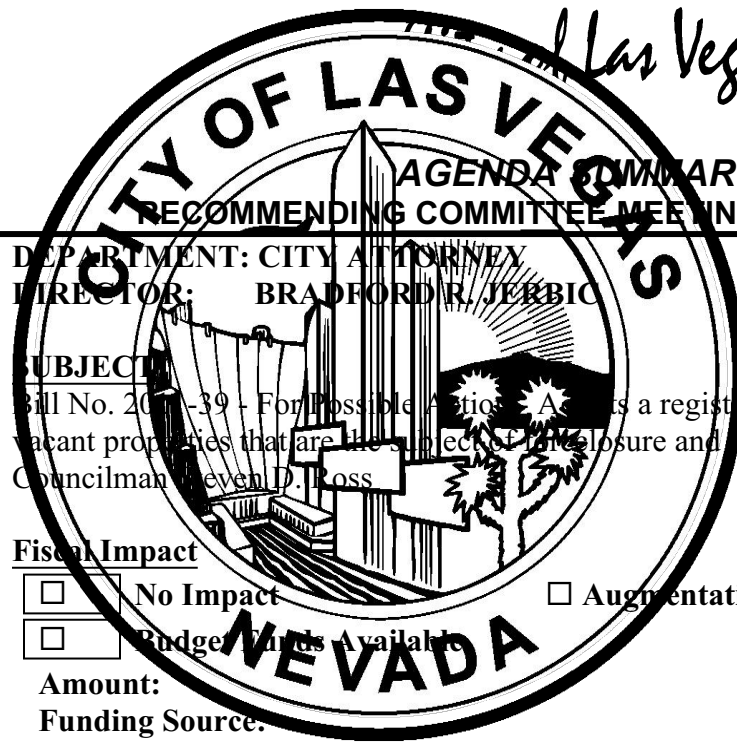




Las Vegas

Agenda Item No.: 5.

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 1, 2011

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-39 - For Possible Action: A bill to create a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings. 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 adopt a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings. Where vacant real property subject to a loan is in default and certain steps toward foreclosure have been taken, lenders with a security interest in the property will be required to register with the City and provide a limited level of ongoing maintenance of the property pending occupancy or ultimate disposition of the property.

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. 2011-39
2. Business Impact Statement
3. Submitted at Meeting Residential Foreclosure Analysis by Mike Bouse and Comments from Nevada State Bank by Charles Cook

Motion made by BOB COFFIN to Hold in abeyance to the 11/15/2011 Recommending Committee Meeting

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

STAVROS S. ANTHONY, BOB COFFIN; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

NOTE: COUNCILMEN ANTHONY and COFFIN disclosed that they have been long-time customers of the Nevada State Bank but that it does not affect their vote or participation in the proceedings.

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 1, 2011

Minutes:

By way of reading the item, COUNCILMAN ANTHONY declared the Public Hearing open.

CHIEF DEPUTY CITY ATTORNEY VAL STEED reviewed the background of the item and pointed out that the business impact process resulted in a number of comments. He identified some typographical errors that will be addressed as well as some terms and concepts that may need work.

MIKE BOUSE, Code Enforcement Manager, reviewed a residential foreclosure analysis and submitted a copy for the record. He stated that there has been some concern regarding shadow inventory and believes vacant homes present several problems including vandalism and neighborhood blight. This ordinance allows lenders to preserve the value of the property while avoiding civil fines and penalties. It will create an inventory that is viewable by utility companies as an aid to identifying the legal status to prevent new service to unauthorized groups or individuals. This bill will allow the City to take action more quickly and efficiently. There are 444 cities nationwide with similar ordinances and 85 enacting similar ordinances, with a general consensus that these ordinances work. In response to COUNCILMAN COFFIN, he stated that he is not aware of any court challenges to these ordinances in force around the country.

COUNCILMAN ROSS, appearing as a Las Vegas resident, thanked MR. BOUSE for presenting the in-depth report. He has felt for some time that the City should be doing more and that the banks should be held more accountable. The quality and integrity of neighboring properties are affected by foreclosures and vacancies. He thanked the staff for their efforts and believes that they played an integral role in helping to formulate this ordinance. He then recognized SEAN FELLOWS, Greater Las Vegas Association of Realtors, and CHRIS LARSON, National Association of Industrial and Office Properties, Commercial Real Estate Development Association, for their collaboration.

COUNCILMAN ANTHONY asked for clarification about the \$200 registration fee specifically regarding when it is paid and where the monies are spent. MR. BOUSE explained that annual registration fees range from \$75 to \$500. He proposed that if the City implements a \$200 one-time fee, it will help cover the administrative expenses and pay the vendors who manage the databases. These vendors are used by numerous other municipalities who collect a portion of the total fee paid. He clarified for the Councilman that the fee is paid by the property owner and that the intent is to bring in a third party to manage the database, but only once the bill is adopted.

COUNCILMAN COFFIN thanked COUNCILMAN ROSS for sponsoring the bill. He stated that he gets demoralized at the sight of vacant homes in his own neighborhood due to the affects on property values in the neighborhood. He believes that it may require some amendments but supports the bill's intent.

COUNCILMAN ROSS agreed that seeing the blight depresses the neighborhood and affects how neighboring property owners choose to keep up their own properties. He has already received emails of support and stated that this will help increase home sales by improving the overall appearance of the neighborhood.

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 1, 2011

COUNCILMAN COFFIN received confirmation from MR. BOUSE that the database will be made available to all utility companies. He also stated that he had not received communications opposing or supporting this bill and DEPUTY CITY MANAGER ORLANDO SANCHEZ stated that he believed he received a letter from the Southern Nevada Water Authority giving their support to the ordinance.

BILL UFFELMAN, President and CEO of the Nevada Bankers Association, stated that the ordinance, as written, is a good idea but not ready for prime time in its current state. He spoke on the legalities of ownership transference due to foreclosures and subsequent issues with access to the property. He then identified several specific revisions to the bill, including specifying a trigger event to begin the process, clarifying calendar or business days, and a reconsideration allowing corporations to use Post Office boxes. He also questioned where the line is drawn for civil versus criminal penalties and suggested aligning the ordinance to those of neighboring municipalities.

COUNCILMAN COFFIN reiterated that this is the first time he has heard any type of feedback whether it be positive or negative.

MR. UFFELMAN, stated that the proposal came out around the same time as the County created a proposal.

DEPUTY CITY MANAGER SANCHEZ stated that he was part of a meeting that involved some of the stakeholders and garnered a significant amount of feedback that was incorporated as much as possible while still protecting residents and preventing a watering down of the bill.

ATTORNEY CHARLES COOK, appearing on behalf of Nevada State Bank, stated that he previously submitted six pages of written comments and submitted a copy for the record. He reiterated MR. UFFELMAN'S comments on identifying a trigger event to begin the process and continued to review his comments as submitted for the record. COUNCILMAN ANTHONY reminded the audience that the purpose of the ordinance is to prevent property abandonment and blight and to hold someone accountable. The Councilman wants to make sure that the one single property does not affect the entire neighborhood. ATTORNEY COOK stated that the bank is powerless prior to assuming ownership and clarified for the Councilman that ownership is not taken until the foreclosure is final and the property is registered to a new owner at the foreclosure sale. He also told COUNCILMAN ANTHONY that, as the bill is written, the bank could be liable for years as it sits in default. The Councilman stated that the purpose of the bill is prevent that property from deteriorating during those years and that someone is held accountable. As the financial institution will eventually be the owner, as the deed holder, it should be accountable.

COUNCILMAN COFFIN believes ATTORNEY COOK is doing a good job for his client, but there is a defacto control when a property goes into default. ATTORNEY COOK stated that he does not believe there is a person who has legal authority to access the property prior to the final sale, but the Councilman stated that someone has to be taking care of this because abatements are being resolved.

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 1, 2011

HARRY HINDERLITER, Senior Vice President of Nevada State Bank, stated that the legal right to enter or access the property is and has been a contentious point because the law only grants the lender that right once the foreclosure process is completed. He commended the City on trying to get a registry going and wants to help.

COUNCILMAN COFFIN stated that after four months on the Council he gets the sense that lenders are not jumping at the chance to protect their interests because of the costs involved. He is frustrated with the process that is one of the reasons behind the bill. He also stated that someone has to take responsibility and that the City will be the one to exercise a greater policing power if a bill such as this is not implemented.

COUNCILMAN ANTHONY received confirmation that MR. HINDERLITER and ATTORNEY COOK that they are in agreement with the bill but want a couple of sections clarified or amended.

MR. FELLOWS thanked COUNCILMAN ROSS and his staff for working on the bill and their efforts in reaching out to the real estate community. He supports the intent but raised concerns of access to the database in regards to the potential for criminal targeting properties on the list. Access should be extremely limited.

COUNCILMAN ANTHONY stated that he believes the general consensus is that people support the bill, but there are a couple of issues. He believes that ordinances have to be extremely clear so there is no question as to what needs to be done. He highlighted the concerns raised by the public and expressed his own concern about criminal versus civil prosecution. In response to the Councilman, CHIEF DEPUTY CITY ATTORNEY STEED responded that whenever a violation is made criminal, some penalty has to be included. Typically, an officer of the corporation is held accountable, but the City does not make that determination.

COUNCILMAN COFFIN wants to keep the bill alive and believes that once a bill is brought before the committee, it is at the jurisprudence of the committee. COUNCILMAN ROSS argued that since staff has its due diligence, it should go to the Council for the larger public audience. He also expressed his agreement with DEPUTY CITY MANAGER SANCHEZ'S decision to prevent the watering down of the bill as the intent is to prevent the further degradation of neighborhoods. CHIEF DEPUTY CITY ATTORNEY STEED said that it could be held in abeyance to another Recommending Committee meeting and another public hearing could be held based on the comments heard today.

DEPUTY CITY MANAGER SANCHEZ received CHIEF DEPUTY CITY ATTORNEY STEED'S recommendation against publishing the bill in its current form.

By way of reading the next item, COUNCILMAN ANTHONY declared the Public Hearing closed.