Agenda Item No.: **3.**

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC ☐Consent ☒ Discussion

SUBJECT:
Bill No. 2011-39 ABEYANCE ITEM - For Possible Action - Adopts 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. This item was held in Abeyance from the November 1, 2011 Recommending Committee meeting.

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. Residential Foreclosure Analysis by Mike Bouse and Comments from Nevada State Bank by Charles Cook
4. Submitted at Meeting - Redlined Proposed First Amendment and Proposed First Amendment

Motion made by BOB COFFIN to Approve as Do Pass as First Amendment

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0
RICKI Y. BARLOW, BOB COFFIN; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:
By way of reading the item, COUNCILMAN BARLOW declared the Public Hearing open and noted if the bills on this agenda are approved, they will be eligible for adoption on December 7, 2011.

MICHAEL BOUSE, Code Enforcement Manager, reviewed a foreclosure analysis and provided background information on the item. He explained the benefit is to create a registration of vacant and foreclosed homes that will help to hold property owners responsible for maintenance. The third party service maintaining the database will be paid for by registration fees collected. Several organizations have been involved in the development of the bill and there are 444 cities nationwide with similar ordinances. Of the 19 jurisdictions that responded to a survey, 17 said it was working well. He would research how many of those cities are similar in size to Las Vegas and how many are in a similar position in regard to foreclosures.

DEPUTY CITY MANAGER ORLANDO SANCHEZ explained that VICKI OZUNA'S research criteria was to find cities similar to Las Vegas.

CHRIS KNIGHT, Director of Building and Safety, explained many of Florida's cities are similar to Las Vegas with high levels of foreclosures, although Las Vegas leads the nation with the number of foreclosures. COUNCILMAN BARLOW explained there are cities experiencing close to the same levels of foreclosures. DEPUTY CITY MANAGER SANCHEZ said he believes he read an article that Las Vegas is now fifth.

COUNCILMAN ROSS stated staff have done a fabulous job and the amended proposal is not a cookie cutter approach. This is a step in the right direction.

COUNCILMAN COFFIN stated the last meeting was controversial and staff have worked very hard over the past two weeks. He received a letter from BILL MARTIN, CEO Service 1st Bank, and noted the amendment contained many of his suggestions.

CHIEF DEPUTY CITY ATTORNEY VAL STEED reviewed the changes in the First Amendment as submitted for the record. Mortgagees do not have to have a local address, although they must have a local property manager. Vacant land is not included in this bill because there is no maintenance requirement in the code, although there are vegetation requirements. COUNCILMAN ROSS stated this addresses properties that have gone into foreclosure and are in disrepair. The idea is to maintain the integrity of neighborhoods to facilitate further sales and higher quality of life. COUNCILMAN BARLOW stated he wants to make sure the bigger picture is considered and commercial properties are included.

COUNCILMAN COFFIN received confirmation from MR. KNIGHT that there are codes in place requiring properties to maintain landscaping. The Councilman further clarified that utilities are not an issue on vacant land.

CHIEF DEPUTY CITY ATTORNEY STEED clarified changes pertaining to to property entry. He stated the amendment provide banks with an escape clause to avoid inspection or maintenance if it can prove its deed of trust does not allow entry and if the lender can show reliable evidence that the borrower would either claim trespass or challenge the lender's right to enter. COUNCILMAN COFFIN stated this is one of the biggest changes to the bill.

BILL UFFELMAN, President and CEO of the Nevada Bankers Association, commended staff for the changes made. The issues surrounding commercial properties are different from those facing residential properties. COUNCILMAN BARLOW agreed that the issue of property managers living outside of Clark County in places such as St. George, Utah; Laughlin, Nevada; or Pahrump, Nevada is valid and he received confirmation from MR. UFFELMAN that these locales still allow property managers easy access to the properties. He suggested specifying a radius for the location of property managers. COUNCILMAN BARLOW asked if radius was taken into consideration when drafting the proposal and MR. KNIGHT confirmed it had been, but staff was looking for someone local that could be easily reached. Thus, the decision was made to make Clark County the requirement. Staff is amenable to expanding the term to a state provider, but there is still a code requiring property managers to be licensed in Las Vegas.

CHIEF DEPUTY CITY ATTORNEY STEED clarified for MR. UFFELMAN that there is not a stipulation to keep utilities on but that requirements to maintain landscaping may require utilities to water and maintain vegetation. MR. UFFELMAN is concerned that maintaining utilities is an open invitation for criminal activity. COUNCILMAN BARLOW received confirmation from MR. UFFELMAN that properties with homeowners' associations (HOAs) are still responsible for external maintenance requirements. HOAs have been given right of entry to go in and spend a reasonable amount of money to clean things up. COUNCILMAN BARLOW questioned the banks' standpoint on how maintenance is enforced or handled from the time the banks assume legal ownership. MR. UFFELMANS understanding is the nuisance is removed eventually, but the HOAs are also more tolerant. Banks tend to strip down landscaping to the plants that are designed to survive in a desert climate. The property owner is obligated to pay the HOA fee, whether the owner is a bank or an individual. COUNCILMAN BARLOW voiced concern about elimination of due process, but MR. UFFELMAN responded due process would have been served and many opportunities provided by that point.

COUNCILMAN ROSS cautioned MR. UFFELMAN that the whole point is to hold the banks responsible and MR. UFFELMAN'S suggestions decimate the purpose. He knows of no bank that is paying HOA dues as required. The Councilman then clarified that some banks are taking the initiative to maintain properties.

RICK CORVELL, Las Vegas resident, stated banks are only obligated to pay HOAs once they take possession or after the foreclosure sale. Fines are assessed but do not resolve the problem. Property rights are being violated by allowing banks to inspect the properties. The idea is not to enter a locked building but to go onto a property to assess the status. Trespass only occurs when somebody calls to complain. MR. CORVELL explained his experience has shown that people do live in properties with no utilities and that exterior inspections do not always reveal whether a property is vacant. COUNCILMAN COFFIN interjected that a standard of reasonableness suggests not going in to a locked property. MR. KNIGHT explained that the owner is held accountable regardless if said owner is a bank or individual. He also stated there is a gap in the urban fabric of the City where investors move on and the community is left reeling.

LOU TOOMIN, Public Information Officer of the Las Vegas Township Constable's Office, stated he contacted COUNCILMAN ROSS with regards to many issues surrounding the foreclosure crisis. He discussed squatter problems and issues with fake leases. He would like to see measures implemented to prevent the disintegration of properties.

SEAN FELLOWS, Greater Las Vegas Association of Realtors, thanked COUNCILMAN ROSS and staff for reaching out to the industry for feedback. He clarified that NRS 645 stipulates that property management records be within 60 miles of the property, but the property manager can located beyond that radius. He also stressed the importance of understanding not all foreclosures are distressed properties.

ED UEHLING, stated he was thankful to have never bought property in Las Vegas and stated the City is headed for bankruptcy. This bill is making matters worse and he is opposed to government getting involved in issues where they do not belong.

GLENN SAVAGE, Director of Environmental Health for the Southern Nevada Health District, stated if this bill strengthens the opportunity for staff to ensure maintenance while protecting public safety he is supportive. He reviewed several public safety issues stemming from vacant, distressed properties.

CARL PLUNKETT, Las Vegas resident, voiced agreement with some of MR. UEHLING'S comments concerning government involvement. He suggested the City go after the property owners and mocked the idea of following the examples of the cities of Oakland and Riverside, California. COUNCILMAN BARLOW agreed that government does not need to be involved in everything, and if there was another solution available there would not be a hearing today. The purpose of the bill is to fill the void and help distressed neighborhoods. MR. PLUNKETT stated the criminal restitutions are too much.

PETER CHRISTOFF, Las Vegas property owner, stated the banks are collecting payments but do not want to take responsibility. The reality is the banks own the property and need to be held responsible.

MR. CORVELL stated the city of Beverly Hills was founded on the principals of maintaining and creating a certain standard and suggested looking to them as a model. He recommended placing clean up projects out to bid.

MR. UEHLING stated the purpose of cleaning up falls to the Health District.

CHIEF DEPUTY CITY ATTORNEY STEED clarified for COUNCILMAN BARLOW Nevada Revised Statutes give the city tools to adopt and enforce ordinances. If there is no penalty included in the bill, then it is only a suggestion. When the City is made aware of an infraction, letters other civil steps are taken. The City is not in the habit of issuing criminal citations for maintenance of the properties. COUNCILMAN BARLOW recieved confirmation from CHIEF DEPUTY CITY ATTORNEY STEED that what makes this ordinance different is the fact it is creating proactive measures before the need for reactive measures.
COUNCILMAN ROSS thanked everyone who has been involved and explained if the City does not do its job, it is not preventing the blight for which the private sector is not taking responsibility.

CHIEF DEPUTY CITY ATTORNEY STEED suggested changing the property manager proximity from Clark County to Nevada.

COUNCILMAN COFFIN stated deregulation of banks has caused many of these problems.

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

Following this item, a brief recess was held from 10:42 a.m. to 10:46 a.m.