



Agenda Item No.: 71.

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT: RECOMMENDING COMMITTEE: ELIGIBLE FOR ADOPTION AT THIS MEETING

Bill No. 2013-24 - ABEYANCE Bill - Possible Action - Amends the City's version of the Southern Nevada Amendments to the 2009 International Energy Conservation Code to exempt certain activity regulated buildings constructed before 2009 from complying with energy conservation standards that otherwise would apply. Sponsored by: Councilman Bob Beers

Fiscal Impact:

☐

No Impact

☐ Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will amend the City's version of the Southern Nevada Amendments to the 2009 International Energy Conservation Code to exempt buildings constructed before 2009 from having to comply with energy conservation standards in the 2009 Code if the original construction of the building and subsequent modifications complied with corresponding standards that were in effect at the time of the construction or modification. This item was held in Abeyance from the June 5, 2013 City Council meeting.

RECOMMENDATION:

ADOPTION at 6/5/2013 City Council Meeting pursuant to the 5/14/2013 Recommending Committee Meeting.

First Reading 5/1/2013; First Publication 5/23/2013

BACKUP DOCUMENTATION:

1. Bill No. 2013-24
2. Business Impact Statement
3. eComments Submitted in Protest at 06-05-2013 Council Meeting
4. eComments Submitted in Protest at 06-19-2013 Council Meeting
5. Submitted at Meeting - Proposed First Amendment by Staff and Letter from Randy Lavigne by Jennifer Turchin

Motion made by BOB BEERS to Approve as a First Amendment

Passed For: 4; Against: 3; Abstain: 0; Did Not Vote: 0; Excused: 0

BOB COFFIN, CAROLYN G. GOODMAN, STAVROS S. ANTHONY, BOB BEERS;
(Against-RICKI Y. BARLOW, LOIS TARKANIAN, STEVEN D. ROSS); (Abstain-None);
(Did Not Vote-None); (Excused-None)

CITY COUNCIL MEETING OF: JUNE 19, 2013

NOTE: City Attorney Brad Jerbic disclosed that he received an email from a member of the public requesting that Councilman Beers abstain from voting on this item due to an alleged conflict of interest arising out of his business relationship with George Harris. City Attorney Jerbic explained that Mr. Harris opened a business prior to the draft of this proposed bill and was subject to all codes as they are currently written. There is nothing in the proposed amendments that would benefit Mr. Harris, so Councilman Beers has no conflict of interest and may vote/discuss this item. City Attorney Jerbic clarified for Mayor Goodman that Mr. Harris was held accountable under the 2009 Energy Code.

Minutes:

CITY ATTORNEY BRAD JERBIC introduced externs ARDENE FOX and TAMARA IOUDINA who would be reading all bills for the record. CITY ATTORNEY JERBIC also noted, for the record, that he had been asked to prepare a proposed first amendment to this bill. The bill currently applies to both residential and commercial, but he was asked by COUNCILMEN COFFIN and BEERS to remove residential from the bill so it applies only to commercial. That proposed first amendment has been submitted for the record.

In response to COUNCILMAN FARLOW, CITY ATTORNEY JERBIC explained that this is a state law and uniform code. There are a number of people that believe when you have a uniform code amendments are prohibited, which CITY ATTORNEY JERBIC does not feel is accurate. All jurisdictions are different and there is no one size fits all. He anticipates legal action against the decision he believes will be made at today's meeting.

MICHAEL CROWE, DENISE COOK, JENNIFER TURKIN (who submitted written comments for the record), ROD SINGER, JIM MEYERS and MONTE LOVE voiced their opposition to the proposed bill.

COUNCILMAN COFFIN expressed his disdain with a member of the public that was circulating a document alleging that a member of the City Council is trying to get this passed in order to reap financial benefits. He stated how important it is to obtain all of the facts before taking such an action.

Las Vegas residents TODD FARLOW and SUZETTE LaGRANGE expressed their support of the bill.

COUNCILMAN ANTHONY received clarification from DEPUTY CITY ATTORNEY VAL STEED that this bill would only require new buildings to comply with the new codes and not those already in existence.

COUNCILMAN COFFIN received clarification from CITY ATTORNEY JERBIC that if the code was repealed for commercial buildings older than 2009, and the 2006 code was repealed when the City adopted the 2009 code, then they would not revert back to any prior version of the energy code. BRAD JERBIC clarified that if Council wants to go back to the 2006 version for these buildings, older than 2009, you can direct staff to do that, and a new amendment can be written so that applies.

CITY COUNCIL MEETING OF: JUNE 19, 2013

MAYOR GOODMAN directed TOM PERRIGO, Chief Sustainability Officer; CHRISTOPHER KNIGHT, Director of Building and Safety; and FLINN FAGG, Director of Planning, to approach the podium to give a professional perspective on this issue.

MR. FAGG explained that he oversees zoning codes and not building codes, therefore, he will exempt himself from the conversation.

COUNCILMAN BEERS stated that he is pro-sustainability. He supported this bill because the current requirements are not reasonable for small businesses because they will never get a return on required investments.

MAYOR GOODMAN felt that mandates should be made on health and safety, not on unreasonably expensive construction costs where sustainability is concerned.

MAYOR GOODMAN expressed her concern with the small business owner who may be forced into extensive renovations under the current code, to the extent that they cannot open their business.

MR. PERRIGO discussed the city's sustainability initiatives and explained that he believes people will find value in this bill within the next five years.

CITY MANAGER ELIZABETH FRETWELL reminded the Councilmembers that adoption of the bill is a policy decision for the City Council and she would direct staff not to give their personal opinions on the matter. MAYOR GOODMAN appreciated CITY MANAGER FRETWELL'S position, but explained that she was simply seeking the opinions of professionals who deal with these issues on a daily basis.

MR. KNIGHT explained that there are a myriad of ways to work within the code and/or seek relief from the code. He agreed with some of the Councilmembers concerns that there needs to be greater flexibility for small business owners.

COUNCILMAN ROSS recalled the beginning of the City's sustainability initiatives in 2006 which have since put the City of Las Vegas at the forefront of this industry. GEORGE HARRIS is, to the knowledge of COUNCILMAN ROSS, the only complainant of the existing building codes. The Councilman then read a letter of opposition for the record before questioning why the City Council would even consider a bill that would move the City backwards.

COUNCILMAN ANTHONY stated that he feels it is reasonable to exempt buildings built prior to 1999.

MR. KNIGHT clarified for MAYOR GOODMAN that LEED certifications are above the IECC standard.

In response to MAYOR GOODMAN, MR. PERRIGO confirmed that promoting sustainability not only helps the City obtain numerous grants, but also provides many opportunities for the city to speak about the issue on a national level while building upon the positive reputation and impact that Las Vegas has on other areas of the country.

CITY COUNCIL MEETING OF: JUNE 19, 2013

COUNCILMAN COFFIN stated that this bill only pertains to old buildings and all the current codes for new buildings will remain intact.

COUNCILWOMAN TARKANIAN thanked all those who spoke on this issue. She stated that City staff have done a phenomenal job of working with applicants when issues pertaining to the code arise, so she will be voting against the bill.

MR. KNIGHT concluded his statements by explaining how converting the uses of a building can greatly impact how the code is applied, especially when the hazard to public safety increases.

Second Reading and bill adopted as Ordinance No. 6256.

See Items 8 and 120 for related discussion.

