



Las Vegas

Agenda Item No.: 8.

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: JULY 23, 2013

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2013-34 - For Possible Action - Updates the City's regulations regarding tavern-limited licensure to provide for an outdoor entertainment complex, and permits the consideration of a temporary privileged license to be forwarded to the City Council at the discretion of the Planning Director. Sponsor: Councilman Bob Coffin

Fiscal Impact

☐

No Impact

☐ Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will update the City's regulations regarding tavern-limited licensure to provide for an outdoor entertainment complex. Similar provisions were proposed last year in connection with an update to the tavern-limited license provisions, but were removed from that measure for further consideration and refinement. This bill will also permit the consideration of a temporary privileged license to be forwarded to the City Council at the discretion of the Planning Director.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

Bill No. 2013-34

Motion made by BOB COFFIN to Approve as Do Pass

Passed For: 2; Against: 1; Abstain: 0; Did Not Vote: 0; Excused: 0

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

Minutes:

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

KAREN DUDDLESTEN, Business Licensing Manager, indicated that this ordinance is a proposal to allow and define outdoor entertainment complexes, which is a place for outdoor retail, restaurants and entertainment venues, but only be allowed on parcels of at least one acre

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within the Entertainment District and allows a use of cargo containers for businesses. The proposal requires the complex and each business to get proper liquor licenses for any alcohol sales. Additionally, the proposal allows individual businesses to have common seating areas provided by the complex and allows alcohol consumption in a common area where meals are consumed. It would require security and signage plans and restrict alcohol to the on-the-premise of the entire complex. Staff wanted to make sure they had a good understanding of the density of alcohol within the complex, either by the number of licenses or if there was any desire between the number of restaurants versus the number of alcohol licenses that would be issued, and if the Council had any concerns about the compatibility of any general licenses that might come in after an alcohol consumption area was approved for the mixing of alcohol with certain types of businesses.

COUNCILMAN COFFIN verified that somebody could apply for a tavern limited license for the common complex area.

ANNA ADAMS, Executive Director, Care Coalition, which focuses on reducing substance abuse and underage drinking in the community. The proposed bill would allow underage youth to congregate in bars and attend entertainment events where alcohol is served. It does not give specific strategies on how to prevent minors from accessing alcohol or does it give information to bars to protect themselves from minors trying to access alcohol. She believes this will set businesses for failure and urged the committee to take a deeper look at the Impact Statement because no risks were identified, but she believes the community will assume many risks if the ordinance is passed as is. Businesses and their employees may not be equipped to train for the onslaught of youth attending their events, trying to pass with fake IDs, trying to bribe employees or paying a homeless person to access the alcohol. Businesses may risk being fined or even shut down and the community will be impacted through extra enforcement that would be placed on the Las Vegas Metropolitan Police Department, downtown and hotel security staff. Businesses that do not offer alcohol will have to deal with intoxicated youth in front of their businesses and could lead to property damage, theft and loss of revenue. The youth could be pressured by their peers into drinking alcohol. She asked that the ordinance be put on hold to identify potential problems, issues and concerns that this ordinance could cause the community and especially the youth.

COUNCILMAN COFFIN asked if the bill states that youth would be congregating in bars. DEPUTY CITY ATTORNEY JIM LEWIS replied that an area would receive a tavern limited license and within this area there could be separate areas that could get their own liquor licenses. This would allow individuals to bring beverages around the complex from where they were purchased.

JOHN SCHUTT, Federal Law Enforcement Trainer with the Office of Juvenile Justice and Delinquency Prevention (OJJDP), expressed concerns about the proposed ordinance. A study revealed that there is a direct correlation between high density alcohol outlets and high crime. His concern is allowing alcohol to move freely throughout the container park and within the children's play area, as well as its proximity to the Las Vegas Academy. Since the container park

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is open throughout the day, alcohol would be available all day and students from the high school will frequent this area. There is already a problem on Fremont Street regarding homeless and underage youth picking up of unfinished alcohol drinks left on chairs or on the ground. There is no plan in place that addresses the pick-up unfinished drinks. He is pleased that Fremont Street has been revitalized and it is safer, but he wants to ensure that predominantly adults drink alcohol. His concern is the availability of alcohol in the container park where people move from area to area within this complex.

SERGEANT CARMEN DONEGAN, Special Investigation Section, Las Vegas Metropolitan Police Department (Metro), stated that Metro works closely with the City's Business Licensing and enforcement to address problem businesses. Special Investigation detectives and patrol officers may help to enforce City ordinances through the issuance of citations or through arrests. She referred to a paragraph on page 10, Section D and her concern that each individual tavern limited license will submit site plans and special conditions will be reflected on each individual license. If the conditions are not clearly delineated, Metro may not be able to issue citations or make arrests at the scene. It would be helpful and easier for officers when they respond to include within the bill itself where drinking is not allowed.

COUNCILMAN BARLOW asked if there would still be any use of the play area would be eliminated from the site plan. SERGEANT DONEGAN replied that it might help but the main issue is separating those under and over twenty-one.

COUNCILMAN BARLOW remarked that the City is being hypocritical with regards to beer and wine or liquor applications. When applicants come before the City Council liquor establishments must adhere to the distance separation requirements from a park, child care facility or a school; however, this ordinance is being crafted around a park, which to him is conflicting. FLINN FAGG, Director of Planning, explained that in terms of the separation requirements from protected uses, it speaks of a public park. What is being indicated on the site plan shown for a container park is a private playground; therefore, not a protected use. However, he noted that staff had concerns upon review of the mixture of playground with the alcohol uses. COUNCILMAN BARLOW stated that the same child going into this private park is the same child that would be attending a school, a public park or a child care facility.

COUNCILMAN COFFIN stated that the adults would be there for business reasons and there is a controlled access point to get into the park. However, MS. DUDDLESTEN clarified that the access points are only on the outer boundaries of the park. The concern on restricting the number of accesses and making sure that was a consideration for the Recommending Committee was not to just be open where people are coming and going. Under current regulations, liquor licenses are granted to a restaurant or a bar. If there is an area where only alcohol is served or consumed, it is required through the supper club ordinance or through a condition on a license that that area be separated. Under current regulations any consumption area or any area where they would want alcohol to be consumed, would have to be where there are tables and meals are consumed and those areas would be segregated from the general area of retail and the park.

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JENNIFER ROBERTS, Lionel Sawyer and Collins, 300 South Fourth Street, appeared on behalf of Shipping Containers, asserted that the proposed plan for this specific development that would be subject to this ordinance prohibits alcohol within the playground area and will be subject to a security plan required by this ordinance. It would be a master license where the park receives one tavern license and they are responsible for following and complying with code requirements and state law.

DIANE ANDERSON, Enforcing Underage Drinking Laws Program in Nevada, provided a binder with studies relating to this ordinance, and introduced KATHERINE BARTOSZ, Statewide Director for Nevada Enforcing Underage Drinking Laws Program. MS. BARTOSZ stated their concerns are for kids who are increasingly accessing alcohol throughout a variety of venues. Since 1999 they have been working closely between businesses and law enforcement about underage drinking by deterring alcohol sales to minors, ensuring that adults do not purchase alcohol and give it to kids and limiting alcohol access to young people. Businesses in Las Vegas have done a wonderful job with this program, and since 1999 the sale of alcohol to minors has diminished. She expressed concern about the vague Impact Statement and asked that it should be more thorough. She suggested bringing national experts in the field, at her expense, to look at the resource and business impacts and possibly see if there is how an improved business impact statement could reflect some minor changes to the ordinance. She expressed concern about a section of the ordinance on Page 11, Lines 21 and 22, referring to persons under twenty-one years of age, and suggested rewording of the ordinance.

COUNCILMAN COFFIN explained that the ordinance was drafted at the request of the container park developer. He asked if the proponents of the bill would be amenable to holding this bill for 30 days. MS. ROBERTS stated that the ordinance is not to license this particular shipping container park but it would allow them to be included in licensing the shipping container park subject to license conditions imposed by Business Licensing and the City Council. There are conditions within the proposed ordinance that require security and site plans. Details about the number of personnel that would monitor the limited access would be provided to the City Council. She emphasized the park is contained and there is limited access and exits. MS. ROBERTS confirmed for MS. ANDERSON that the security and site plans will be submitted once the ordinance is approved.

BRIAN OKALLAHAN, Las Vegas Metropolitan Police Department, asked if a massage business or barber shop were to open in the container park, would they be able to apply for a liquor license. COUNCILMAN BARLOW replied that it would be at the discretion of the City Council. SERGEANT DONEGAN added that the proposed ordinance does not cover that specific issue because it says that liquor may not be brought to retail businesses; it does not say it can travel to a massage parlor located within the container park or other licenses that are not retail. The way it is currently written people can purchase alcohol at another location and walk inside a massage parlor or barber shop carrying alcohol.

COUNCILMAN ANTHONY thanked everyone for their comments and pointed out that unfortunately underage drinking is never going to stop. From his standpoint, this ordinance

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develops a license which comes down to a security plan that is put in place to make sure that everything they are talking about does not happen. He asked who puts the security plan together, who approves it and if all those who spoke can provide input. MS. DUDDLESTEN replied that under the ordinance the security plan is proposed by any applicant for a common area within the entertainment complex. In this instance, the Shipping Containers would propose the security plan. She may request Metros help in reviewing it or it would be up to the Business License Director to review those plans and then it allows for a tavern limited license of this type for a common area instead of issuing a temporary license and then bring it forward to the City Council, who could issue a temporary license. DEPUTY CITY ATTORNEY LEWIS added that the security plan, as specified in the ordinance on Page 9, Lines 3-23, staff would review the security plan prior to the application going to City Council and then make a recommendation of approval or denial for the City Council. COUNCILMAN ANTONY suggested Metro look at the security plan and give their recommendations to business licensing. DEPUTY CITY ATTORNEY LEWIS remarked that the important thing to remember is that, if this ordinance were approved and this application came forward and the security plan was found not to be appropriate by the City Council, the liquor license would not be issued.

COUNCILMAN BARLOW asked KAREN COYNE, Chief of Safety Officer, to report on what has happened since the adoption of the ordinance regarding smoking in parks, fees associated with bringing alcohol in parks and the separation of smoking in parks. CHIEF COYNE indicated that currently a person can secure a sheltered site at any designated park within the City through the Parks and Recreation Department in designated areas and have alcohol present. Since that ordinance was passed they have not been the same types of problems that led to the adoption of that ordinance, which were employee related injuries because of broken glass bottles. Enforcement issues have been controlled and families come and consume alcohol with children present, but it seems to work well due to the distance separation.

MS. ROBERTS verified with COUNCILMAN BARLOW that there will be approximately 30 containers in the park, of which, four or five establishments will have liquor licenses.

COUNCILMAN BARLOW stated that the container park would be a fabulous entertainment venue. As he evaluated and researched this bill as it related to children and liquor, he can only reflect that historically the City of Las Vegas has always separated children from alcohol with distance separation requirements between schools, child care facilities and parks. The ordinance relating to alcohol and cigarettes in parks has been amended by creating boundaries and separation. The container park is located in a specific area of downtown that the Mayor and City Council chose to be an adult entertainment corridor. Over the past two years a great job has been done in removing bad elements along East Fremont. He remarked that he does not recall any conversation regarding children being in this corridor, as it related to approved taverns and licenses. The park component within the container park should be removed and have adult-like entertainment and activities. He cannot support the ordinance with the childrens park element included.

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COUNCILMAN COFFIN noted that input or concerns can be addressed during the licensing process.

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

