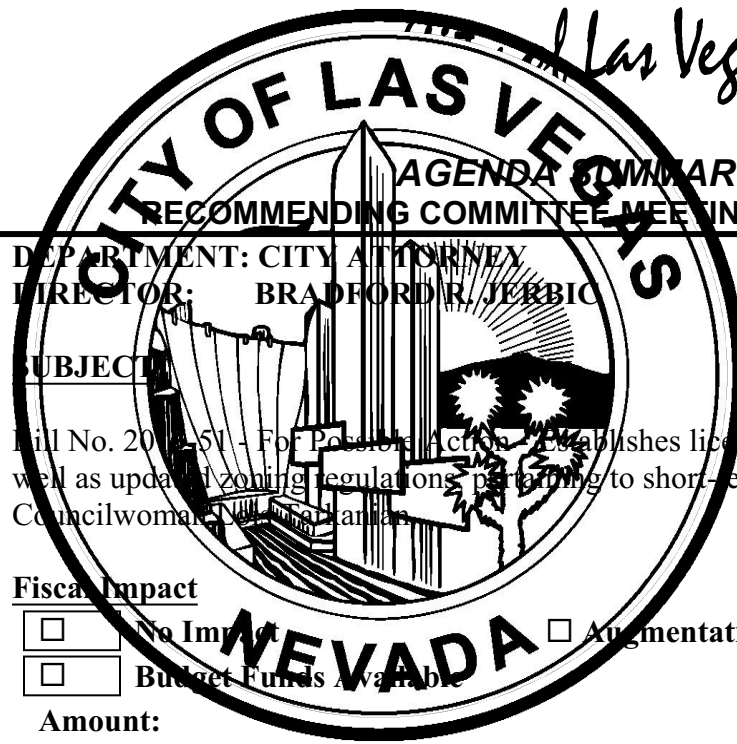




Agenda Item No.: 3.

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2013-51 - For Possible Action - Establishes licensing requirements and regulations, as well as updating zoning regulations pertaining to short-term residential rentals. Sponsored by: Councilwoman Nellie Canales

Fiscal Impact

☐ No Impact ☐ Augmentation Required
☐ Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

In 2008 the City Council adopted zoning regulations regarding short-term residential rentals. Since then, an analysis of the licensing and zoning impacts of these uses has been conducted. Several of those impacts were identified in a report provided to Council in August 2012. This bill follows up that report and, among other things, will 1) require operators to obtain a business licensee and pay a license fee, 2) establish occupancy limits for these operations, and 3) set forth other standards and limitations designed to limit impacts on surrounding areas.

RECOMMENDATION:

Referred back to the Recommending Committee meeting of 10/15/2013 at the 10/2/2013 City Council Meeting

DENIAL at the 10/2/2013 City Council meeting pursuant to the 9/17/2013 Recommending Committee Meeting

First Reading 9/4/2013; First Publication 9/19/2013

BACKUP DOCUMENTATION:

1. Bill No. 2013-51
2. Informational Packet on Properties submitted at the Recommending Committee Meeting of 9/17/2013
3. Comment submitted online by: Robert J Rubin

Motion made by RICKI Y. BARLOW to Approve the recommendation that the City Council not adopt Bill 2013-51

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

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

NOTE: A previous motion by COFFIN to Approve as Do Pass as a Second Amendment failed with BARLOW and ANTHONY voting NO.

Minutes:

COUNCILMAN BARLOW declared the Public Hearing open.

DEPUTY CITY ATTORNEY VAL STEED outlined the proposed changes within the scope of what was advertised both from a business impact perspective and from a perspective of what the Planning Commission had processed. The proposed changes were submitted for the record.

COUNCILMAN BARLOW asked the reason for changing the "overnight" to "nighttime" and what "nighttime" represents. DEPUTY CITY ATTORNEY STEED explained that "nighttime" represents a period of time between 10:00 p.m. on one day and 6:00 a.m. on the next succeeding day. There was no definition of "overnight" as it could be one minute or ten hours and there was no way to enforce. Occupancy limits will be determined based on whether occupants are there during daytime hours or nighttime hours.

Regarding the added provisions requiring a property manager, COUNCILMAN COFFIN suggested considering using the word "must" or "shall", as the word "may" will give the discretion to the director. DEPUTY CITY ATTORNEY STEED indicated that there will be operators that the director is familiar with, that may be out-of-state but have presented no problem and there would be no reason to require a manager. The idea is to provide flexibility. However, the Recommending Committee has the discretion to recommend that everyone must comply. COUNCILMAN BARLOW stated he would prefer to have the word "must" for all out-of-state and possible "may" for in-state as a check and balance. DEPUTY CITY ATTORNEY STEED indicated that within the first sentence on Page 3 the "may" will be changed to "shall". The second sentence speaks to any kind of licensee and it gives the director at any time during the period of a license to impose violations even to someone who is not out-of-state. Therefore, that would have to be a "may" because it would have to define repeated complaints.

DEPUTY CITY ATTORNEY STEED continued with reviewing the proposed changes, and indicated that the public can provide comments at the City Council meeting of November 6 or it can be referred back to the Recommending Committee of November 5 and the public can provide comments at that time.

COUNCILMAN ANTHONY asked KAREN DUDDLESTEN, Business Licensing Manager, to speak about the suggested special use permit for short-term rentals. MS. DUDDLESTEN explained that following the City Council's direction to come up with additional restrictions to address concerns regarding short-term rentals, one concept is the requirement under Title 19 that

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short-term rentals would only be allowed based on a special use permit. The requirement is that prior to a short-term rental being established in a neighborhood, the neighbors would be notified of a public hearing to decide if the area is appropriate for a short-term rental. A decision as to whether that individual location is appropriate would be made either by the Planning Commission or at City Council. In talking with the City Attorney's Office, the scope of the ordinance that has been advertised did not go that far. If directed or if there was a sponsor for that concept, staff could bring back the proposal to the Recommending Committee. Currently, there is very little regulation and there is little that can be done except go after those places that have complaints. The proposal of a special use permit adds some of that regulation and suggests considering bringing back additional steps before short-term rentals are licensed and be reviewed individually. She verified with COUNCILMAN ANTHONY that her recommendation would be to require a special use permit for individual locations and neighborhoods. Some neighborhoods are protected by homeowners associations that do not allow short-term rentals.

COUNCILMAN ANTHONY pointed out that when this item was first discussed, he heard about short-term rentals being party houses, and his initial thought was to ban them. However, after hearing comments from people who rent short-term homes to people who come to Las Vegas for a weekend and do not cause problems in a neighborhood, he feels that there is a need. But regulations must be in place so that nuisances are not created in a residential neighborhood. He believes the special use permit process is an additional step to enforcing that. The special use permit can be taken away at any time if event problems or complaints are issued against a property.

ROBERT SUMMERFIELD, Senior Planner, explained that the special use permit process requires the applicant to do an entitlement application. Once they submit the application, the application will be placed on a Planning Commission agenda as a public hearing and will be noticed within a 1,000 square foot radius. Based on testimony provided by the neighbors, the Planning Commission could recommend additional conditions beyond those recommended by staff for that particular location. The Planning Commission would then recommend approval or denial of that special use permit. Special use permits, other than those dealing with alcohol, are Final Action at Planning Commission. However, a Councilmember could request to have that item heard at a City Council meeting. COUNCILMAN ANTHONY asked if a special use permit is approved, how it can be revoked. MR. SUMMERFIELD replied that once entitlements are approved, they remain with the land once that activity continues, but there are revocation provisions. There is also the ability to institute a review by the City Council or an administrative review in a period of one or two years. DEPUTY CITY ATTORNEY STEED added that to revoke a special use permit, the holder of the special permit would be notified, who will present their case to the City Council and show cause why their special use permit should not be revoked.

MS. DUDDLESTEN pointed out that civil penalties are only imposed for Title 6; the special use permit would be under Title 19. She suggested the Recommending Committee consider imposing civil penalties against Title 19 violations, which is the land use, in order to get people

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to comply with the requirements of the special use permit.

COUNCILMAN COFFIN verified with MS. DUDDLESTEN that the application fee for a special use permit is \$500 with a \$300 notification fee. MS. DUDDLESTEN added that a permit for a weekend short-term rental is \$50 and the annual permit fee is \$250. DEPUTY CITY ATTORNEY STEED added there are also room tax fees.

PATRICIA FLICK stated that for two and a half years she has had to endure living next to a party house. The owner lives in the state of Washington and has been renting it since May 2011. She loves her neighborhood and she belongs to the neighborhood watch and has observed many things going on at this party house; noise, heavy drinking, traffic, large amounts of people staying at the house, limousines and taxicabs. She begged the Recommending Committee to give this issue serious consideration.

ROBERT RUBIN indicated he lives across from the party house where he has seen prostitution and traffic caused by taxicabs and limousines. At the last meeting it was agreed that enforcing this bill was impossible. He was pleased with the addition of the short-term definition, but he asked who would be enforcing the new language. He does not believe anybody wants a short-term rental next to their home, especially if they create problems in the neighborhood. He does like the special use permit idea because adjacent residents will be notified; however, residents who do not live in the vicinity might not object to the special use permit. MR. RUBIN asked that short-term rentals not be allowed.

JEWEL DIXON stated that party houses are a constant problem and regardless how well-meaning the proposed legislation will be, it will not solve the problem. Party houses or short-term rentals would destroy a neighborhood. If this problem continues, the only options he has would be to move and he should not be put in that position. He asked the Recommending Committee to abolish the bill, as it cannot be enforced.

MICHELLE POMBO, Broker-Owner of Las Vegas Turn Key Rentals, formerly Southwest Vacation Rentals, indicated that the terminology of short-term rentals is anything less than one year that does not require a lease. Her short-term rentals are one month at-a-time. There is no way to enforce regulations and ordinances. The goal is to stop party houses and legitimize short-term rental managers who support eliminating party houses. She stated that a party house is filled with 28 to 30 people creating noise and causing problems in the neighborhood. The root of this is money. There is a state forfeiture law and if this kind of activity goes on in a home and if there is a conviction or an arrest, the landlord or a manager, must take action to remove the problem from the house and protect the neighborhood. She remarked that people looking for short-term rentals are people who come to Las Vegas to take care of a family member who needs surgery or shop for a home. She asked that legislation have teeth because the party house owners do not live here. She suggested creating a forfeiture law instead of regulating the legitimate real estate manager. If someone has an investment property that is leased to the general public, they need to have a manager, a real estate license, a property management permit and the manager

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must live within 60 miles of that property in the event of emergencies and or complaints. She is concerned that the special use permit will create more party houses. She would volunteer her time and knowledge to help address this issue, but the terminology is not short-term houses, it is party houses. COUNCILMAN COFFIN verified with MS. POMPO that she has units in the City and the County. The prohibition in the County has not stopped party houses in the County. A different approach other than prohibition but regulation might work. MS. POMBO pointed out that the law should address party houses where it states what can and cannot happen in a house located in a residential neighborhood. Most importantly the terminology of party houses needs to be defined.

COUNCILWOMAN TARKANIAN stated that she has been dealing with this particular party house for four years without a resolution. Enforcement is the key because the owners of these party houses do not care about the law. She does not believe in giving property owners who do not abide by the rules three chances, but rather give them only two and impose heavy civil penalties or forfeit the house.

JOHN PALMER has been marketing short-term rentals in Las Vegas since 2004. He is sympathetic to the residents who reside near a party house and he is very much against them. He is defending a legitimate business and the people he markets the home to are vacationers, families and business people who want to be in a home because they need privacy or because the hotel is not an ideal solution for their stay. He supports the proposed changes and agrees that enforcement is key. The ordinance should have teeth that not only guides the operator towards the right kind of activity, but makes the penalty strong and clear for inappropriate activities. Legitimate operators try to be conducive with the neighborhood culture and maintain a good relationship with the neighbors and do not have complaints. He asked that the Recommending Committee create regulations that will protect legitimate businesses.

CHERYL WAYNE stated she and her husband have invested in long-term rentals but with the downturn economy, their option was to have short-term rentals. They rent short-term rentals to people coming to Las Vegas to see a show, convention, or have surgery. She wants a distinction between party houses and vacation houses. Some hotels are not conducive for large families who want to stay together. She was disappointed that Business Licensing does not provide clear information about regulations and compliance requirements, but she was pleased with the proposed changes. However, she pointed out that the special use permit notice will bring attention that a house is vacant and might lure unwanted attention.

DR. ANTHONY SOMMER stated he and his wife manage several rental homes in Las Vegas and the County. The minimum rental is of 30 nights and not less than 30 days. A few bad apples are creating a bad situation for legitimate homeowners. He agrees that the target is the term party house and the proposed ordinance does not specifically define what that is nor does it target that specific entity in a firm way. This particular ordinance will never succeed to shut down party houses. The vast majority of homeowners lease their homes to families that want to stay in a home environment and do not create problems for the neighborhood. As written the

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ordinance is not succeeding in shutting down party houses. He also offered his time and experience to help draft strong legislation that will prevent party houses. He does not support the special use permit because legitimate owners understand what a short-term rental is, but many do not and they might automatically believe the use is for a party house. The families that stay in short-term rentals bring business to Las Vegas. To hurt legitimate owners because of a few bad apples is the wrong approach.

COUNCILMAN COFFIN asked MR. SOMMER what part of the bill he does not support. DR. SOMMER replied that he is not against it and the principles within it, but he does not believe it will lessen complaints of party houses. He does agree imposing strong fines and possible imprisonment. COUNCILMAN COFFIN pointed out that the special use permit is the main enforcement mechanism that will be very effective.

LYN STORK stated that she has had pleasant experiences while staying in vacation homes. There are people who come from all over the world to seek medical and dental care for families and need a place to stay with their families. The homes are well-maintained and it is a positive experience for families.

ATTILA GRAUZER owns five vacation homes in Las Vegas and has not had any complaints from adjacent neighbors. In the event he hears of any problems, they know they can contact him at any time. He supports short-term rentals and his properties are well-maintained.

MARGARET KRYK is visiting from Germany to take care of her father who is recovering from cancer. His dream was to live in Las Vegas so she decided to transfer her parents from Indiana. She rented a house with a pool for two weeks, which her family enjoyed, while her father received medical treatment. Staying in a house rather than an hotel, was a beautiful experience, especially because she was able to have pets at the house, something that most hotels do not allow. She believes party houses belong on the Strip.

PEGGY MUNSON was born and raised in Las Vegas and stated that nobody opposed short-term rentals, but rather want party houses shut down. It angers her that this goes on in a community and finds it difficult to believe that it has not been shut down. The community needs to be responsible. She does not believe the special use permit will stop these party houses. She questioned why the police cannot evacuate the house once a complaint is issued.

KENDALL HEATH stated she has a three-bedroom vacation rental in Las Vegas in a residential area and also wondered why the police are not enforcing this issue. She cannot believe there is no authority in the City to control this behavior. It sounds like somebody is being paid to look the other way. The people who rent her house are people that come to Las Vegas for family reunions, family illness and adoption, military families from Nellis Air Force Base, snowbirds and temporary workers. Staying in a hotel is not adequate for more than a week. She employs housekeepers, gardeners, and handyman. This is an industry that needs to be protected and keep people employed. The issue is to address the one percent that does not abide by the law.

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KENT GROOMS indicated that these homes are not like commercial businesses. He is pleased with the ordinance, but there needs to be language that imposes fines that will double according to the number of complaints filed. Stricter rules should be imposed.

KAREN SOMMER agreed that the ordinance has not been able to shut down party houses and she has not seen any changes specific to its enforcement in the proposed revised ordinance. There may be homes that are appropriate for bachelor parties or weddings, and she opined that these homes should require a special use permit. Other rentals are not commercial businesses; they fit into the neighborhood and people do not even realize that someone is staying in the home for a month or a week. The short-term rentals are like a month-to-month lease. Somebody may need to rent a house for three weeks or less, but now all these strict requirements are being imposed. Property owners will not be able to afford fees associated with the special use permit in order to comply with all the ordinances. There are conflicts in the state law with the ordinance as written requiring short-term rentals be managed by a property manager or a licensed property management company. All major cities around the world offer vacation rentals, yet Las Vegas does not allow it. Many property owners are not licensed because they are not aware of the requirements.

RICHARD KLIPPER agreed with all comments and added that party houses are hurting their businesses. Those houses causing problems should be fined and shut down and possibly impose fines as high as \$15,000. MR. KLIPPER indicated that a Vacation Rental Association was created and suggested that residents be provided with telephone numbers where they can call to report problems. Short-term rentals bring business in a community. The County allows 31 days minimum rental but that is unreasonable because people usually come to Las Vegas for a minimum of three to four days or a week.

ROBERT FOX stated that requiring a special use permit will hurt legitimate vacation rental owners, especially fees associated with the permit. Residents will think the permit is for a party house and will oppose the request and a legitimate short-term rental might be shut down.

TODD FARLOW, Las Vegas resident, referred to an article in the Vanity Fair magazine where it talks about the ability for people to rent a vacation house or a party house with mobile devices. He asked how this would be enforced. Enforcement is the key but code enforcement officers do not work on weekends and suggested that funds be allocated so that code enforcement officers can respond to issues or problems.

COUNCILMAN BARLOW asked how to eliminate party houses and at the same time enforce vacation homes and short-term rental properties. Some said that forfeiture laws are too egregious and some said they are not egregious enough to protect the property owners' investment. He verified with MS. DUDDLESTEN that she has not had a chance to speak with COUNCILWOMAN TARKANIAN regarding her recommendations.

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COUNCILMAN BARLOW asked if there is a distance separation requirement regarding vacation homes and or party homes. MS. DUDDLESTEN replied that that is a land use issue. COUNCILMAN BARLOW stated that no matter what measures are in place, he has not heard anything that would impede the process of party homes. He acknowledged COUNCILMAN ANTHONY'S recommendation of a special use permit and application process and possibly being a final action at the Planning Commission level. COUNCILMAN BARLOW understood the speakers' concerns about notification and application fees. The key is enforcement but the question becomes how. MS. DUDDLESTEN indicated there are enforcement challenges because of limited code enforcement staff, the uncertainty of what action officers can take because they are not certified and difficulties when asked to enter private properties. Additionally, when there is a complaint about a property not licensed or permitted, it will be difficult to know if it is a private home or a short-term rental. In the City of Las Vegas there is only one property with an annual permit and eight others with weekend permits. The proposed regulations can easily be monitored and documented. Regulations, such as no on-street parking, are enforceable with a civil penalty or a citation. The proposed language also restricts holding parties. However, that will be the biggest challenge because homeowners have a right to have a gathering at their home. Staff will have to do its best to ascertain if the house is a rental. Business Licensing staff have shifted their schedule to make sure other staff members are available during nighttime hours to respond to complaints while working closely with code enforcement. Just because a complaint was filed does not mean a civil penalty ensued. Staff needs evidence that a party actually happened.

COUNCILMAN BARLOW pointed out that many who spoke agreed that enforcement is needed. The goal is not to put anybody out of business but the Las Vegas brand needs to be protected and in order to do that, measurable goals need to be in place. The Councilman suggested having signs in the yard identifying a vacation or short-term rental home so that residents are aware that the homeowner is licensed to conduct this type of business. MS. DUDDLESTEN referred to Page 5 requiring a notice be displayed on the exterior of the short-term rental property listing a 24-hour contact information so that neighbors that have a complaint will be able to contact whoever is managing that property, who is required to respond to the complaint within one hour. A step further would be to require the license number on the notice. For those who do not have a permit and a complaint is filed for that property, staff would have to ascertain if it is a rental or an unpermitted property. Identifying those properties would help staff to immediately contact the property owner.

COUNCILMAN COFFIN asked the homeowners present if they had permits for their rental houses, to which nobody replied in the affirmative. The Councilman remarked that only seven properties located in the City of Las Vegas are permitted. He believes the Bill needs to be approved with the recommendations and proposed amendments. He congratulated those who are complying with the law and suggested those who have short-term rental properties acquire the proper permits. MS. DUDDLESTEN verified for COUNCILMAN COFFIN that the property at 616 Campbell Drive has an annual permit by a commercial real estate manager but all the others are permitted by the occasion that it is needed. The established permit process has two options; weekend or annual permits. COUNCILMAN COFFIN asked MS. DUDDLESTEN to look into

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the reason why the Business Licensing's website is not working. MS. DUDDLESTEN replied that staff worked very hard to get the on-line business license application. The permit applications are available on a readable PDF file and the rental form is also available on-line.

COUNCILMAN ANTHONY thanked everybody for their comments. There seems to be a need for short-term rentals, but a system needs to be implemented to regulate short-term rentals and make sure they do not become a nuisance for a residential neighborhood. The proposed amended Bill is a good start and the special use permit is appropriate because, as a resident, he would like to know if a short-term rental exists in his neighborhood. Residents will be notified of a special use permit request and will have an opportunity to show their support or objection before the Planning Commission and the City Council. The application process will inform the Planning Commission and City Council whether a short-term rental is appropriate for the area. He stated that people operating a party house do not worry about civil fines. However, harsher fines should be imposed on those homes that create a nuisance. COUNCILMAN ANTHONY recommended looking into how much money is appropriated for the enforcement of this Bill and suggested that the monies should be considered during the next budget cycle. He does not believe the proposed Bill will put short-term rentals out of business if they have the proper permits.

COUNCILMAN BARLOW likes the proposed special use permit process because it will make residents aware of what is happening in their neighborhood. He recommended that this Bill not be moved to the City Council but brought back on the November 5 Recommending Committee meeting with the special use permit information. However, DEPUTY CITY ATTORNEY STEED clarified that the special use permit needs to go through the Planning Commission process, but it does not need a Business Impact Statement, as zoning regulations are exempt from a Business Impact Statement under state law. The Planning Commission saw a version that took Planning out of the process but now is asking to have Planning put back into that process. He further explained that the special use permit process will not be included in this Bill as it will die if not adopted on November 6. The Recommending Committee has the discretion to recommend that this Bill not be adopted and bring it back with the added special use permit requirement or go forward with its adoption and bring back the special use permit portion at a later date.

COUNCILMAN COFFIN moved that the Recommending Committee Do Pass Bill 2013-51 as a second amendment, except for the special use permit. He asked that it be redrafted and referred back to the Recommending Committee with the special use permit process. DEPUTY CITY ATTORNEY STEED reiterated that the special use permit cannot be included in this version. COUNCILMAN COFFIN also recommended that on Page 3 the word "may" be changed to "shall" and that the Bill be referred back to the November 5 Recommending Committee meeting. COUNCILMAN ANTHONY verified with DEPUTY CITY ATTORNEY STEED that if the motion was to approve as a second amendment with all the proposed changes on Page 3 as recommended by COUNCILMAN COFFIN, the Recommending Committee could send the Bill back to be heard on November 5 or referred directly to City Council on November 6. Either way it has been noticed to be heard on November 6 by the City Council. The motion would be to

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approve the Bill with the proposed changes and then bring back a separate ordinance with the special use permit requirement. As far as the fines, DEPUTY CITY ATTORNEY STEED suggested that if the special use permit requirement is imposed, the Recommending Committee could also require that civil fines and civil violations be part of that special use permit process.

MR. SUMMERFIELD indicated that based on the prior Recommending Committees recommendations to prepare an ordinance to eliminate short-term residential rentals, a Text Amendment was put on the November 12 Planning Commission agenda. However, subsequent comments from the Recommending Committee, as well as City Council, that item was pulled. However, the Text Amendment can be modified to make short-term residential rentals by a special use permit, and it can be included on the November 12, 2013 Planning Commission agenda. After action at the November 12, 2013 Planning Commission, it will follow administrative procedures to forward that to the City Attorney to create the ordinance and then it will come before the Recommending Committee for the ordinance adoption process.

COUNCILMAN BARLOW stated he would not support the ordinance only because he prefers that the ordinance include the special use permit process, as well as penalties. COUNCILMAN COFFIN stated that delaying action would delay the regulation. COUNCILMAN BARLOW pointed out that many present in the audience are not familiar and it will take homeowners time to learn and comply with the proposed legislation. DEPUTY CITY ATTORNEY STEED suggested that the Recommending Committee recommend that the City Council not adopt Bill 2013-51 at the November 6, 2013 City Council meeting with the understanding that a new Bill will be introduced that will include the special use permit process, as well as civil penalties. DEPUTY CITY ATTORNEY STEED further clarified that the Bill would not be coming back to the November 5, 2013 Recommending Committee meeting.

COUNCILMAN BARLOW recommended that the drafting of the ordinance begin as soon as possible. CITY CLERK BEVERLY BRIDGES added that the soonest the new Bill will be read for the record would be at the first City Council meeting of December. DEPUTY CITY ATTORNEY STEED stated that they do not plan on doing another Business Impact Statement, even though it is a new ordinance, because it is the same ordinance as it relates to Title 6; the only changes are being made to Title 19 and those do not require a Business Impact Statement. COUNCILMAN BARLOW declared the Public Hearing closed.