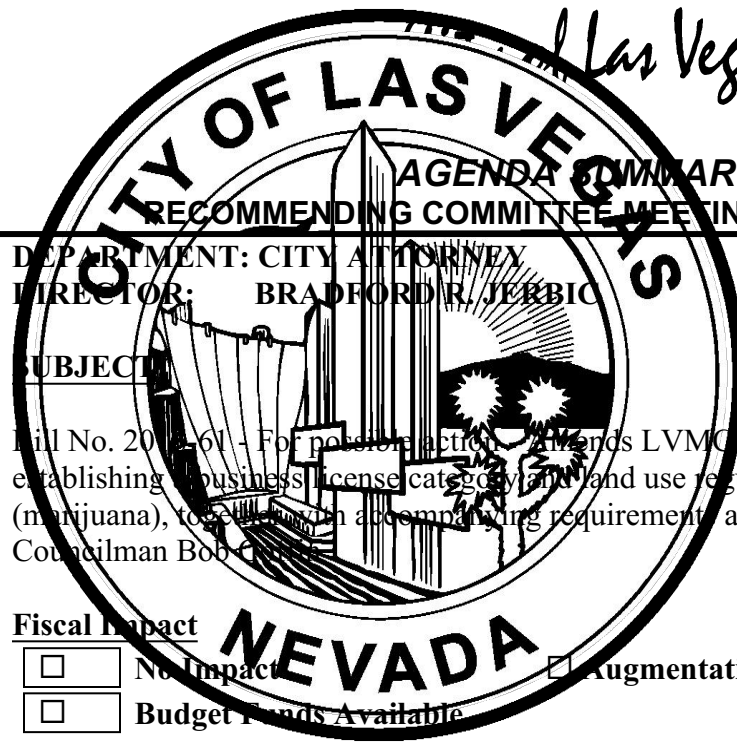




Las Vegas

Agenda Item No.: 5.

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2018-61 - For possible action. Amends LVMC Titles 6 and 19 to adopt provisions establishing a business license category and land use regulations for social use venues (marijuana), together with accompanying requirements and limitations. Sponsored by: Councilman Bob Coffin

Fiscal Impact

☐

No Impact

☐ Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will amend LVMC Titles 6 and 19 to adopt provisions establishing a business license category and land use regulations for social use venues (marijuana), together with accompanying requirements and limitations. The bill includes items recommended by the sponsor and City staff. It also takes into account input from interested parties that was received during and after workshops that were held on the subject.

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. 2018-61
2. Submitted at Meeting Letter from Las Vegas Metropolitan Police Department Submitted by Chuck Calloway and Letter and Supporting Documentation Submitted by Madison Rodgers

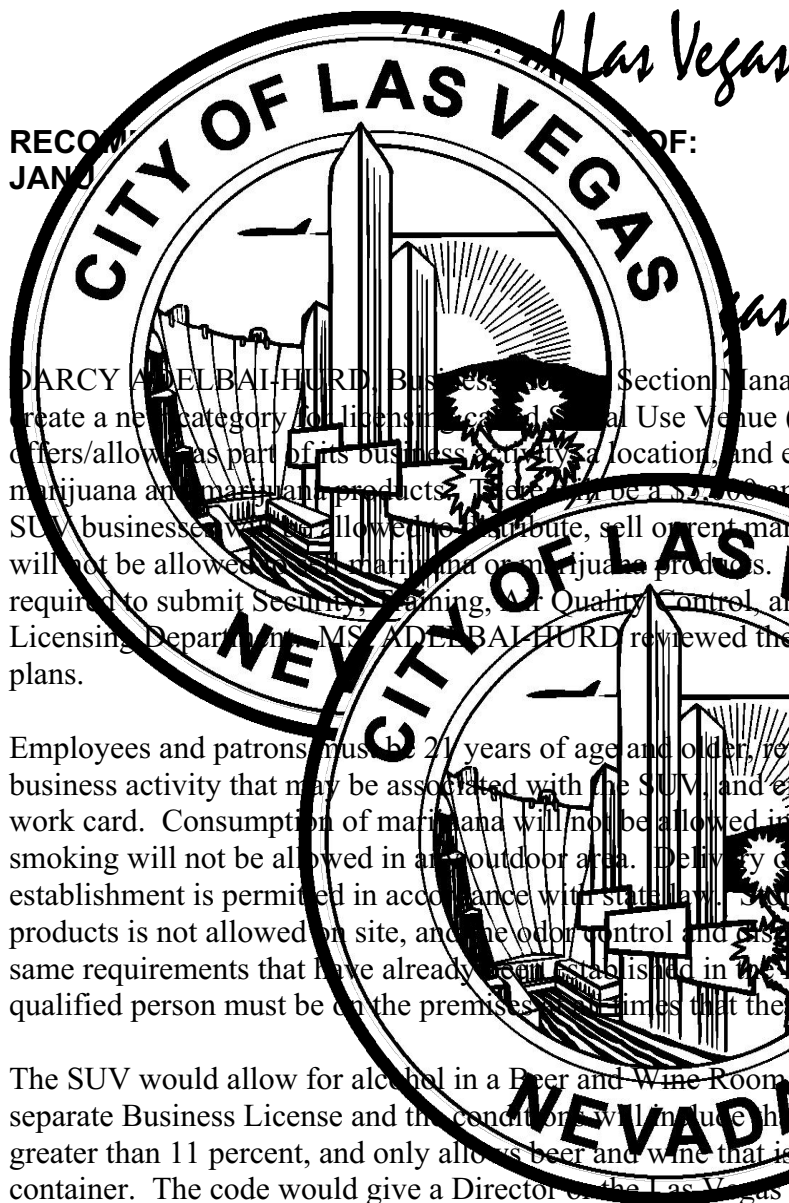
Motion made by BOB COFFIN to Hold in abeyance to 2/19/2019

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

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

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.



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DARCY ADELBAI-HURD, Business Licensing Section Manager, explained that this bill would create a new category for licensing called Special Use Venue (SUV), which is a business that offers/allows as part of its business activity a location, and equipment for the consumption of marijuana and marijuana products. There will be a \$2,000 annual license fee for the SUV and SUV businesses will be allowed to distribute, sell or rent marijuana paraphernalia; however, they will not be allowed to sell marijuana or marijuana products. Prior to approval, applicants will be required to submit Security, Training, Air Quality Control, and Fire Safety plans to the Business Licensing Department. MS ADELBAI-HURD reviewed the requirements for each of these plans.

Employees and patrons must be 21 years of age and older, regardless of any other type of business activity that may be associated with the SUV, and employees are required to obtain a work card. Consumption of marijuana will not be allowed in view of the general public, and smoking will not be allowed in any outdoor area. Delivery of marijuana to the outdoor establishment is permitted in accordance with state law. Storing marijuana or marijuana products is not allowed on site, and the odor control and disposal requirements must meet the same requirements that have already been established in the Marijuana Establishment Code. A qualified person must be on the premises at all times that the establishment is in operation.

The SUV would allow for alcohol in a Beer and Wine Room License. This will require a separate Business License and the conditions will include that the alcohol beverage volume is no greater than 11 percent, and only allows beer and wine that is premixed and in its original container. The code would give a Director of the Las Vegas Metropolitan Police Department (LVMPD) the authority to immediately suspend a license for up to 10 days if they find that alcohol other than what is permissible is being sold, employees in possession of illegal substances, employees having consumed marijuana while working, or marijuana found to be stored on site.

An SUV applicant must obtain a Special Use Permit (SUP) from the Planning Department and follow the same distance requirements as marijuana establishments. This will update the Las Vegas Municipal Code (LVMC) 6.86 which adds SUVs to the work card requirements, and LVMC 6.50 to add the Beer and Wine Room License into this section.

ROBERT SUMMERFIELD, Planning Director, clarified that the distance separation requirement is 1,000 feet from a school and 300 feet from any other protected uses. COUNCILMAN COFFIN believed the federal distance requirement was 1,000 feet from any school, and he wondered if there were any other federal distance requirements. MR. SUMMERFIELD understood that the 1,000-foot distance separation for schools was a State requirement. COUNCILMAN COFFIN shared that a person wanted to put a dispensary in on Fremont Street; however, based on the federal requirements, it did not meet the 1,000-foot



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distance requirement from a school.

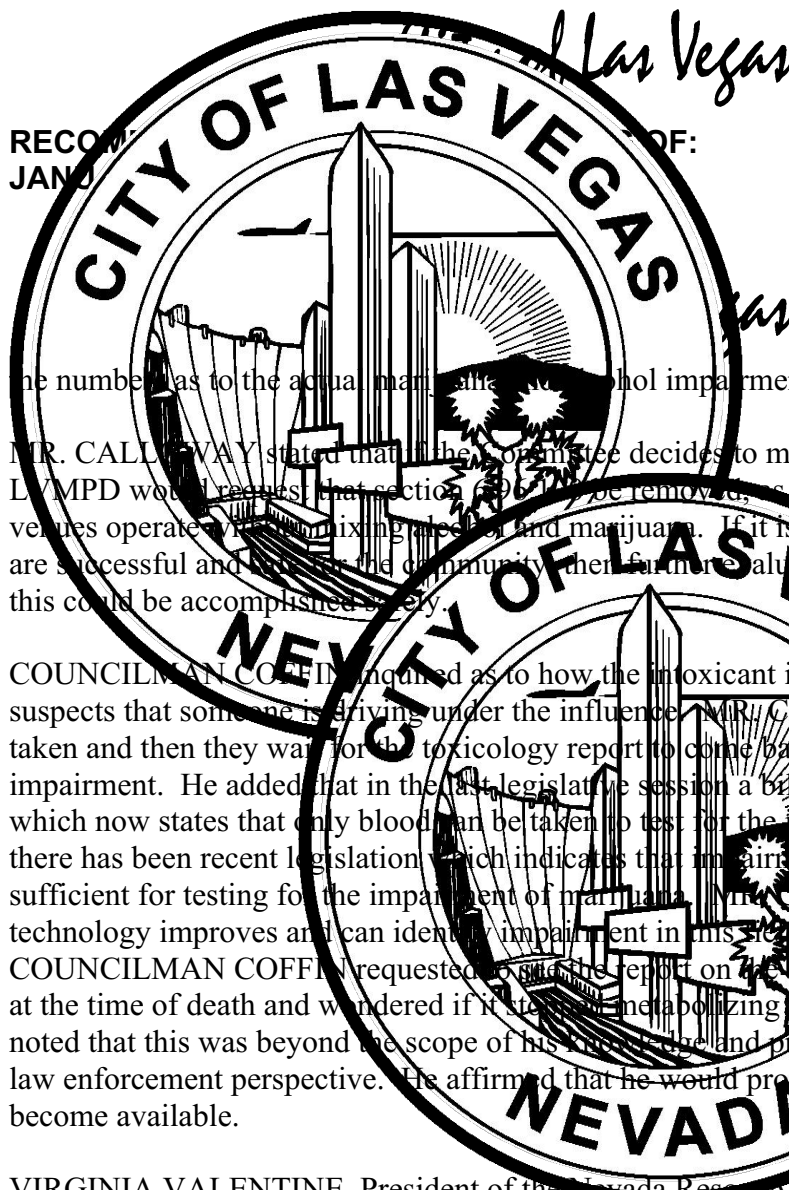
COUNCILMAN ROMAN FLORE said that it was important to hear from the public, especially the casino representatives.

COUNCILMAN FLORE noted that he had suggested amendments be brought in writing, as this would save time.

JAMES LAMB, Vice President of Las Vegas Medical Marijuana Association, discussed that their organization has always put the safety and security of patients and medical tourists at the top of their priority list, and now this will include recreational users. He felt that safety and security was a great responsibility with the SUVs and should consist of strong reminders to patrons, and regulations for the owners, about the use of untested marijuana, which he also referred to as the black market. He explained that untested marijuana is a safety issue because these products put users at risk of medical harm. He thought there should also be reminders to patrons about Driving Under the Influence (DUIs) especially for tourists who may not realize that Nevada has a low threshold for impairment with marijuana. He said that SUVs are much-needed and long overdue, however, they should be looked upon as just another nightclub or bar.

MONA LISA SAMUELSON, medical marijuana patient advocate, community activist, and patient lobbyist, expressed support for everything in the ordinance, as well as in support of smoking outdoors. She conveyed that medical marijuana patients are the individuals who need the public consumption lounges, as they are medically suffering because there is a lack in sharing observational medicine and information. She conveyed that patients feel this is a step in the right direction for the community, and they look forward to seeing this ordinance evolve.

CHUCK CALLOWAY, Director of the Office of Intergovernmental Services for the Las Vegas Metropolitan Police Department (LVMPD), stated that they understand the need for legal places where tourists can go to consume marijuana. He thanked the City's Business Licensing Division for working with them over the past few months, as they have addressed many of their concerns. However, LVMPD believes there is still a major concern with the proposed ordinance under section 6.96.100, which would allow the consumption of marijuana along with the consumption of alcohol, and inevitably, patrons of these establishments will get behind the wheel of a vehicle and drive. He noted that recent studies had shown approximately 22 percent of fatalities that occur involve a driver that is under the influence of both marijuana and alcohol. These studies have also demonstrated that the combined effects of these two depressants cause impairment at a greater level than an individual substance alone. He shared that there have already been eight fatal traffic accidents in LVMPD's jurisdiction, and though not all of them included impairment, LVMPD will reach a record number of casualties if this rate continues. MR. CALLOWAY explained that he was still waiting on the reports from the 139 fatalities that occurred last year because it takes a long time for toxicology reports to come back. However, he expected to have



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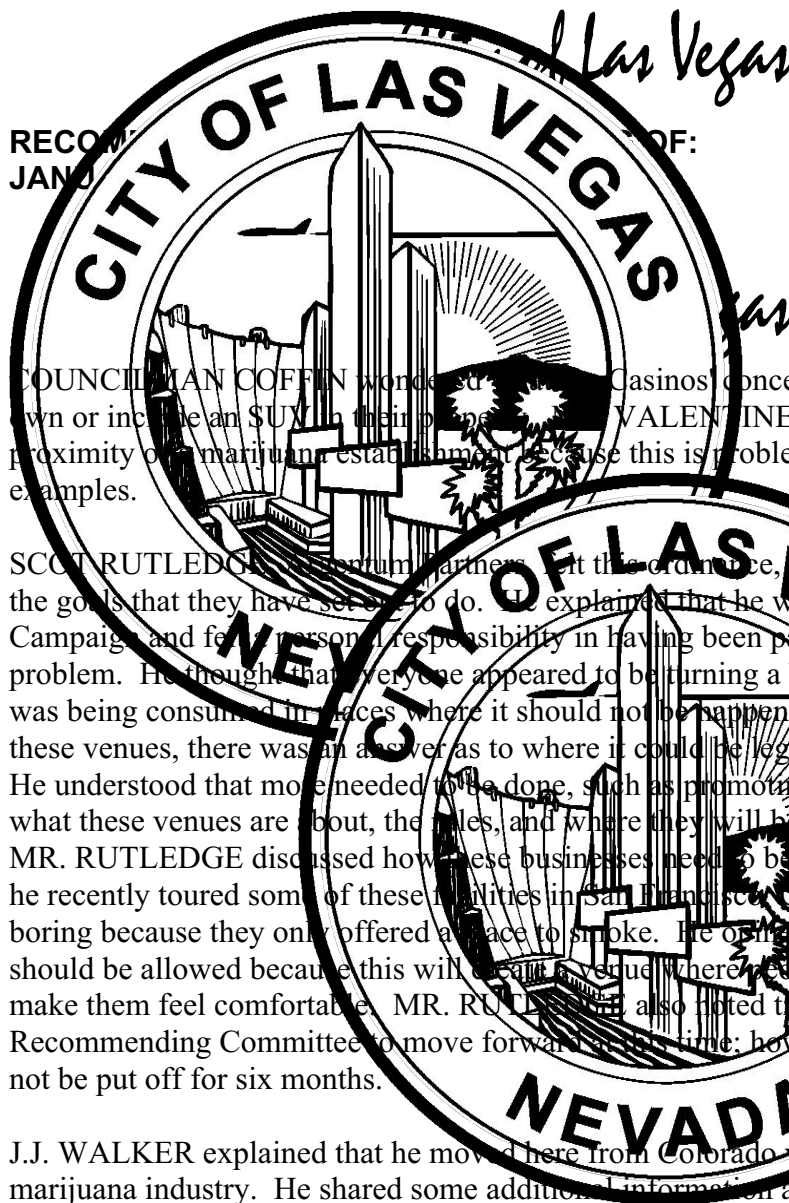
The number was to the actual marijuana alcohol impairments from the reports very soon.

MR. CALLOWAY stated that if the committee decides to move forward with this ordinance, LVMPD would request that section 696.177 be removed as they would like to see how these venues operate without mixing alcohol and marijuana. If it is determined that these businesses are successful and benefit the community then further evaluation could be considered as to how this could be accomplished safely.

COUNCILMAN COFFIN inquired as to how the intoxicant is determined when LVMPD suspects that someone is driving under the influence. MR. CALLOWAY said that a blood test is taken and then they wait for the toxicology report to come back to determine the level of impairment. He added that in the last legislative session a bill was passed that changed the law, which now states that only blood can be taken to test for the impairment of marijuana. However, there has been recent legislation which indicates that impairment tests for alcohol are not sufficient for testing for the impairment of marijuana. MR. CALLOWAY believed that until technology improves and can identify impairment in his field there will be challenges. COUNCILMAN COFFIN requested to see the report on the quantities of marijuana and alcohol at the time of death and wondered if it was still metabolizing at that time. MR. CALLOWAY noted that this was beyond the scope of his knowledge and provided additional comments from a law enforcement perspective. He affirmed that he would provide these reports as soon as they become available.

VIRGINIA VALENTINE, President of the Nevada Resort Association, spoke in opposition to the amendments to Titles 6 and 19, which allow marijuana social clubs. Noting that gaming is a privileged license in Nevada, she pointed out that it is grounds for disciplinary action by the Nevada Gaming Commission and Nevada Gaming Control Board if a licensee violates state and federal laws. Additionally, they are held to high standards with regard to Anti-Money Laundering requirements and, in this case, particularly with cash. Until those conflicts between the state and federal laws can be resolved, they are in opposition to marijuana lounges.

MS. VALENTINE stated should the City decide to proceed with this bill, they would request that the Gaming Enterprise Districts be given the same protections that they are afforded on the Las Vegas Strip, and to avoid proximity to those kinds of establishments that would result in a possible violation of a federal law or gaming regulation. MS. VALENTINE pointed out that a letter she recently submitted indicated the State Gaming Policy Committee had met, and at their meeting, they passed out information to regulators and gave specific guidelines, which included that gaming and marijuana cannot be associated with one another, as well as a number of other requirements.



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COUNCILMAN COFFIN wondered if the Casinos' concerns were since they do not need to own or include an SUV in their business. VALENTINE felt that it was primarily due to the proximity of a marijuana establishment because this is problematic, for which she provided some examples.

SCOTT RUTLEDGE, a former partner in the ordinance, as written, accomplishes some of the goals that they have set out to do. He explained that he was involved with the Question 2 Campaign and felt a personal responsibility in having been part of creating this public policy problem. He thought that everyone appeared to be turning a blind eye to the fact that marijuana was being consumed in places where it should not be happening, and through the creation of these venues, there was an answer as to where it could be legally consumed in the community. He understood that more needed to be done, such as promoting and educating the public as to what these venues are about, the rules, and where they will be located. MR. RUTLEDGE discussed how these businesses need to be venues where people want to go, as he recently toured some of these facilities in San Francisco, California, and found them to be boring because they only offered a place to smoke. He asked for alcohol, beer, and wine should be allowed because this will create a venue where people can choose their intoxicant and make them feel comfortable. MR. RUTLEDGE also noted that he did not want to urge the Recommending Committee to move forward at this time; however, he also thought this should not be put off for six months.

J.J. WALKER explained that he moved here from Colorado where he spent 10 years in the marijuana industry. He shared some additional information about his work histories. He shared that in his experience in serving thousands of people in this type of venue, a physical location provides guests an opportunity to do things legally, and also provides the City with a chance to educate consumers.

COUNCILMAN COFFIN inquired as to the number of SUVs in Colorado, and MR. WALKER reported that he thought only one or two of these were open in Denver. He also explained as to how they were over-regulated and noted that they did not serve alcohol.

MADISON RODGERS, Chief Executive Officer (CEO) and Founder of CannaGuild, explained that they are an up-and-coming third-party resource for medical marijuana patients, employees, and legislation. She discussed that the current bill draft indicates that each privileged license requires payment of a non-refundable \$5,000 fee. She asked the City to consider a separate tiered fee for licensed nonprofits of any stature of \$2,000 to reflect the alcohol licensing form PL231. MS. RODGERS submitted her request letter, a copy of which was attached as backup.

MS. RODGERS also had several questions. She noted that the word training was listed in the bill draft; however, the word education was not. She asked what the City's and the State's



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responsibility was as to the minimum amount of education and training. Additionally, she wondered how much an agent could expect for this type of establishment, and inquired as to the City's plan regarding tax income, for education for social use permits and dispensary and marijuana education.

With respect to 6.96.030 MS, RODGERS recommended that the words under the influence should be removed, as it is the business's responsibility to regulate their employees and not the City. With 6.96.030 B, she felt that the 21 and over age limit was presumably in response to the sale of alcohol, and she recommended a waiver for medical marijuana cardholders who are under the age of 21.

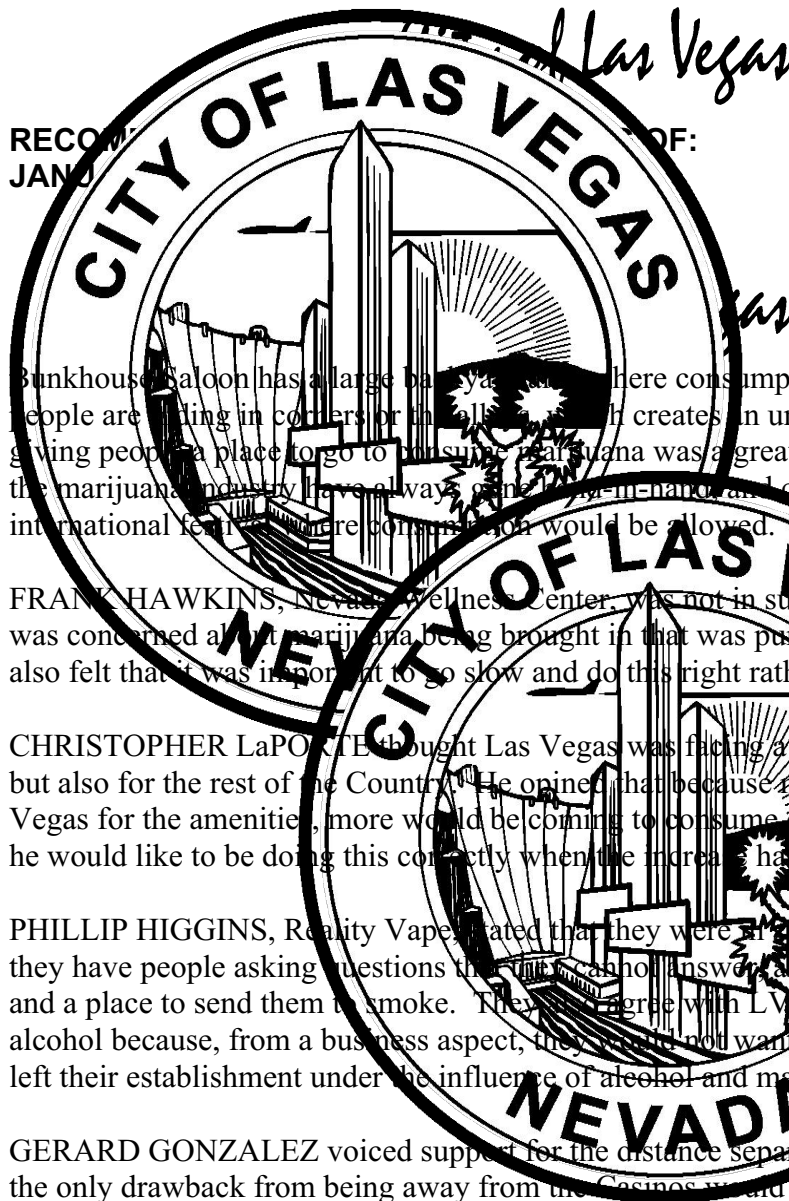
JOHN JOHNSON talked about the cannabis industry, noting that he was born and raised in California and was a part of this initiative when it first started. He felt this was a social justice issue because many people have been criminalized because of cannabis; however, he does not see this in Nevada. MR. JOHNSON discussed minorities and financial burdens. He asked the City to do some research in the Equity Program, as it has been established in certain cities in California to help combat the drug trade and provide minorities a chance in the cannabis industry. He was also in support of reducing the licensing fee to \$2,000 for the nonprofits and did not feel that alcohol was a liability for an SUV.

JENNIFER TRAMAGLINO, the founder of Canneo Hospitality, spoke in support of the ordinance. She conveyed that Canneo Hospitality would like to offer services to everybody who wants to own these types of venues because they have developed, owned and managed properties in the MGM Resorts, Cosmopolitan, and Station Casinos. She also supported the beer and wine offerings, as this would offer an extra revenue stream.

A'ESHA GOINS, Green Bridge Consulting Group, liked the way the ordinance was written; however, she hoped the City would consider a variance for Ward 5. She explained that if the current zoning was considered for Medical Marijuana Establishments, there would be no consumption lounges placed in this ward. COUNCILMAN ANTHONY understood that there were a lot of churches, schools, and parks in this ward.

MS. GOINS stated that she also did not see any limits for licenses on the bill or that scoring was addressed, and one of her concerns was that new small businesses would not be able to take advantage of the ordinance. She asked the City to consider a scoring mechanism that would address this so that everyone will have an opportunity to apply. She was also in support of the alcohol component because this would be a great opportunity for return on investment.

RYAN PARDEY has been managing the Bunkhouse Saloon in downtown Las Vegas since 2015 and has noticed a big problem since the legalization of marijuana. He explained that the



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Bunkhouse Saloon has a large bar area where consumption has been happening, and many people are sitting in corners or on the floor, which creates an unsafe environment. He felt that giving people a place to go to consume marijuana was a great idea. He thought that music and the marijuana industry have always gone hand-in-hand and could foresee an outdoor, international festival where consumption would be allowed.

FRANK HAWKINS, Nevada Wellness Center, was not in support of the alcohol component and was concerned about marijuana being brought in that was purchased or brewed from outside. He also felt that it was important to go slow and do this right rather than being first.

CHRISTOPHER LaPORTE thought Las Vegas was facing a great opportunity, not only for itself but also for the rest of the Country. He opined that because more people are coming to Las Vegas for the amenities, more would be coming to consume cannabis, and as a business owner, he would like to be doing this correctly when the increase has been.

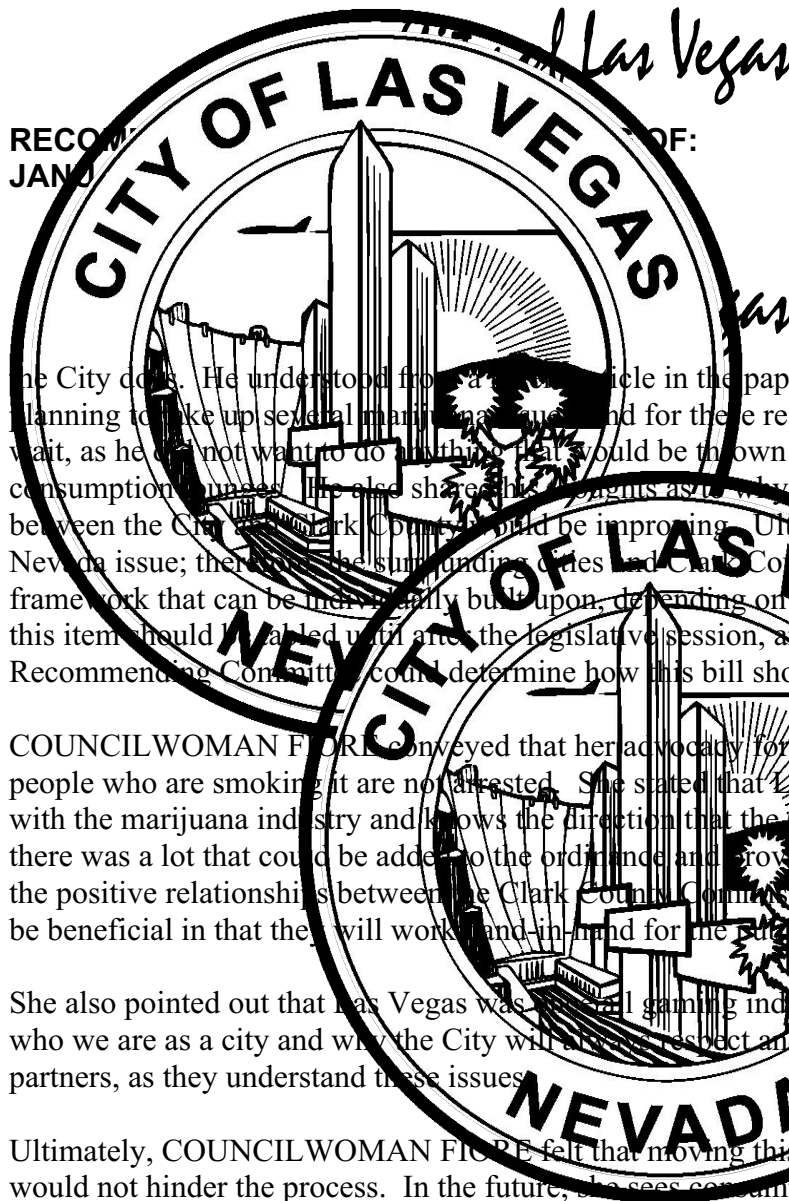
PHILLIP HIGGINS, Reality Vape, stated that they were in support of the bill because every day they have people asking questions that they cannot answer and they would like to have answers and a place to send them to smoke. They do agree with LVMPD's request to not include alcohol because, from a business aspect, they would not want to be involved with someone who left their establishment under the influence of alcohol and marijuana.

GERARD GONZALEZ voiced support for the distance separation from the casinos and thought the only drawback from being away from the Casinos would be for someone who may want to see a show. He also agreed that cannabis consumers should be able to enjoy a snack, alcohol or a marijuana cigarette.

COUNCILMAN COFFIN appreciated the comments he received both in private and in public. He understood this bill would not go through quickly because he inserted alcohol as a permitted use for the economic viability of a place. Ultimately, he did not feel that the bill was ready to move forward and suggested that the item should be held in abeyance.

COUNCILMAN ANTHONY did not feel there was significant interest in consumption lounges at this time because he had not received any phone calls pushing for them. However, he believed consumption lounges would be established at some point in the future, as there would be more interest for them and this seems like the next stage. He noted that COUNCILMAN COFFIN asked staff to put an ordinance together, and given that this was their first attempt, he thought it still needed work.

The Councilman also agreed that it was important to go slow and do this right, and he explained that Nevada is a Dillon's Rule state, which means the State of Nevada can preempt anything that



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the City does. He understood from a [REDACTED] article in the paper that the State Legislature was planning to take up several marijuana bills, and for these reasons, he felt it would be better to wait, as he did not want to do anything that would be thrown out by the State concerning consumption lounges. He also shared his thoughts as to why he believed the relationship between the City and Clark County would be improving. Ultimately, he felt this was a Southern Nevada issue; therefore, the surrounding cities and Clark County should be determining a single framework that can be incrementally built upon, depending on the jurisdiction. He suggested that this item should be tabled until after the legislative session, and based on that outcome, the Recommending Committee could determine how this bill should move forward.

COUNCILWOMAN FIORE conveyed that her advocacy for marijuana is more for ensuring that people who are smoking it are not arrested. She stated that LVMPD has been great in working with the marijuana industry and knows the direction that the City is headed. She thought that there was a lot that could be added to the ordinance and provided an example. She agreed that the positive relationships between the Clark County Commissioners and the City Council would be beneficial in that they will work hand-in-hand for the public.

She also pointed out that Las Vegas was a gambling industry, which is the foundation of who we are as a city and why the City will always respect and give precedence to the gaming partners, as they understand these issues.

Ultimately, COUNCILWOMAN FIORE felt that moving this down the road for a little while would not hinder the process. In the future, she sees consumption lounges as being designed well and a big business in Southern Nevada. She also agreed that this needs to be done right the first time and that SUVs should be started without alcohol.

COUNCILMAN COFFIN explained as to why he felt it was not necessary to delay this bill for six months. He also thought alcohol should be part of the consideration; however, he was open to the idea of having the consumption lounges without it.

COUNCILWOMAN FIORE said she would try to speak to SPEAKER JASON FRIERSON, Nevada State Assembly, and have a combined meeting with the Clark County Commissioners to get an idea of where things were heading.

COUNCILMAN ANTHONY declared the Public Hearing closed.