



Recommending Committee Minutes

1. Call to Order

Minutes:

COUNCILMAN ANTHONY called the meeting to order at 10:00 a.m.

PRESENT: COUNCILMEMBERS ANTHONY, FIORE and KNUDSEN

ALSO PRESENT: CHIEF OPERATIONS AND DEVELOPMENT OFFICER TOM PERRIGO, DEPUTY DIRECTOR OF PLANNING PETER LOWENSTEIN, DEPUTY CITY ATTORNEY JEFF DOROCAK, SENIOR DEPUTY CITY CLERK JACQUIE MILLER and DEPUTY CITY CLERK CHEYENNE LARANCE

2. Announcement Regarding: Compliance with Open Meeting Law

Minutes:

ANNOUNCEMENT MADE: This meeting has been properly noticed and posted at the following locations in accordance with the State of Nevada Executive Department Declaration of Emergency Directive 006: The City of Las Vegas website – www.lasvegasnevada.gov and The Nevada Public Notice Website – notice.nv.gov.

3. Bill No. 2020-39 - ABEYANCE ITEM - For possible action - Amends LVMC Chapter 6.50 to establish a new alcohol delivery support service alcoholic beverage license category, together with associated requirements and limitations, and expand the categories under which a business can exercise an ancillary alcoholic beverage license.
Sponsored by: Councilman Stavros S. Anthony

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

PETER LOWENSTEIN, Deputy Planning Director, stated the intent of the bill is to expand the ability of various types of alcohol beverage licensees to deliver alcohol beverages subject to appropriate safeguards. The bill also encompasses the delivery of alcohol beverages in original, sealed containers via a third party to consumers by telephone, internet or other electronic means. He stated the bill was held in abeyance at the November 30, 2020 Recommending Committee meeting to allow for additional review and to receive feedback, and as a result of that feedback, a First Amendment is being proposed.

DEPUTY CITY ATTORNEY JEFF DOROCAK read and explained the proposed changes included in the First Amendment, which he noted could be found in Subparagraph D, Subsection 4 on Page 2 and Paragraph 3, Subparagraph B on Page 6.

COUNCILMAN ANTHONY felt staff had done a good job listening to and incorporating public comments into the First Amendment.

ATTORNEY JENNIFER LAZOVICH appeared representing Albertsons and expressed their support of the proposed ordinance with the amendment. Grocery stores were allowed to deliver alcohol with a grocery item pre-pandemic, and this allows for flexibility going forward.

ERIN McMULLEN, Boyd Gaming, thanked the Committee for including prohibiting delivery to nonrestricted gaming properties, and wished to clarify that this applies universally and not just to the new license category of a third-party liquor delivery support service. She also referenced comments that were sent in by VIRGINIA VALENTINE,

Nevada Resort Association. MR. DOROCAK indicated those comments were received and would be read when he was directed to do so.

COUNCILMAN ANTHONY verified with MR. DOROCAK that delivery to nonrestricted gaming license locations only pertains to this ordinance and third-party delivery and did not apply to a company that did their own delivery.

MS. McMULLEN asked if prohibiting delivery to nonrestricted gaming locations was included in the temporary emergency ordinance, which was implemented to allow liquor delivery. COUNCILMAN ANTHONY stated the intent of the proposed ordinance is to expand delivery to include third-party delivery companies. He thought discussion regarding whether or not businesses that do their own delivery should be allowed to go to nonrestricted gaming locations would involve another ordinance and should take place at another time.

MR. DOROCAK added the current code allows grocery stores that have an ancillary license to deliver anywhere, including nonrestricted gaming properties, and that this bill will allow third-party delivery through the new alcohol delivery support service license. In addition, the language within the bill allows businesses with a package liquor license to make their own deliveries. MS. McMULLEN stated who or how it is delivered is not really an issue for them, but rather the fact that alcohol delivery can be made to an establishment that has bars, restaurants, etc. COUNCILMAN ANTHONY did not think it was agendaized to discuss non-third-party delivery companies being allowed to go to nonrestricted locations, and he suggested MS. McMULLEN speak to a Councilmember that may be interested in sponsoring an ordinance change to address this.

At this time, MR. DOROCAK read the e-comment received from MS. VALENTINE referenced earlier in the discussion, a copy of which is included in the backup.

RYAN SAXE appeared on behalf of Instacart, Amazon and Shipt, who are third-party grocery delivery companies that currently deliver for most of the licensed grocery stores in the city of Las Vegas. He said they support the bill as originally drafted along with the First Amendment, even though it limits where they can deliver. They appreciated staff's assistance and the ability to work with representatives of the gaming companies with regard to the language. He asked for confirmation that the existing code that allows grocery stores to deliver does not have any restrictions as to where they can deliver. It is their understanding, however, that nonrestricted gaming properties are allowed, as policy, to prohibit those deliveries to guests at their hotels.

JIM O'CONNOR, Executive Vice President of Operations, Lee's Discount Liquor, spoke in opposition of the bill as written. Their understanding is that the City is currently under contract with an outside service to review its liquor laws as a whole, and they do not think moving ahead with this prior to that review being completed is prudent. He wondered how the Las Vegas Metropolitan Police Department felt about the City looking to open up third-party delivery since Clark County would likely follow, and this would result in possibly 1,000 convenience stores delivering a privileged product all over Southern Nevada. While not against delivery, they feel a more in-depth study is needed, and they have concerns with the associated liability. If a third-party delivery is not practicing proper protocol, such as checking identification and obtaining the appropriate signatures, control is being lost with regard to the delivery of alcohol.

MR. DOROCAK confirmed for COUNCILWOMAN FIORE that with the passage of this ordinance, liquor stores would be allowed to use a third-party delivery service or they can set up their own in-house delivery. With the casinos being on private property, the Councilwoman asked if they could deny deliveries, to which MR. DOROCAK confirmed private property owners can impose additional restrictions as long as they are not unconstitutional. COUNCILWOMAN FIORE did not think there should be fewer requirements for a delivery service than a liquor store and asked about the difference legally between going to Lee's Discount Liquor herself to purchase alcohol versus a service delivering it to her. MR. DOROCAK noted one difference may be that the alcohol delivery support service employees may not be required to obtain a TAM (Techniques of Alcohol Management) card, which is required of some of the other liquor license categories, but that is because it is not required under State law. However, a requirement is included in the proposed ordinance for alcohol delivery support service companies to have procedures in place, which would be reviewed by the Planning Department, for the drivers to know what to look for (i.e., age, identifying if someone has already had too much to drink, etc.). He pointed out detailed plan procedures could be found in Section 95 of the bill, which he read. He reiterated these plans would be reviewed by the Planning Department.

COUNCILMAN KNUDSEN asked about the status of the consultant's study and how this ordinance tied into that overall picture. CHIEF OPERATIONS AND DEVELOPMENT OFFICER TOM PERRIGO stated staff meets with the

consultant on a regular basis, who is finishing the first draft, and that the City Council would be briefed within the next few weeks. He noted the consultant was asked specifically if it would be best to wait to bring this ordinance forward, but he advised what was being proposed would not affect his recommendation. COUNCILMAN KNUDSEN referenced third-party delivery of alcohol being prohibited to nonrestricted gaming locations, and the emergency ordinance that allows such. He asked if no delivery of alcohol would be allowed, with the exception of third-party providers, once the emergency ordinance expires. MR. PERRIGO explained all provisions of the emergency order would expire, but deferred to MR. DOROCAK for further clarification. MR. DOROCAK explained the emergency ordinance was extended via resolution to the end of June, 2021, but if the proposed ordinance were to be adopted, it would supersede the alcohol delivery component within the emergency ordinance, and would, therefore, become the controlling document.

COUNCILMAN KNUDSEN asked if the proposed ordinance pertains to third-party delivery only. MR. DOROCAK stated it creates an alcohol delivery support service license for third-party delivery and allows businesses in the city that hold a package liquor license to use third-parties or to deliver themselves. He added third-party deliverers cannot go to nonrestricted gaming properties. COUNCILMAN KNUDSEN restated the ordinance would allow third-party deliveries for establishments that hold a package liquor license, and would supersede any emergency action the Council has taken. MR. DOROCAK confirmed.

COUNCILMAN KNUDSEN stated the proposed ordinance allows for package liquor licensees to deliver to nonrestricted gaming properties, whereas third-party deliverers would not be able to and wondered whether both should be prohibited from delivering to nonrestricted properties.

MR. DOROCAK confirmed for COUNCILMAN ANTHONY this ordinance authorizes liquor establishments to do their own deliveries once the emergency directive expires as long as the appropriate ancillary license is obtained. He also confirmed the ordinance differentiated that third parties cannot deliver to nonrestricted gaming establishments, but a store that delivers on its own can.

COUNCILMAN ANTHONY wondered if the item should be abeyed if the wish was for the bill to be changed so that no store can deliver to a nonrestricted gaming property, or if they should move forward with it now and then come back with an amendment. MR. DOROCAK indicated that was a policy call for the Committee to make.

COUNCILWOMAN FIORE felt the item should be abeyed because she did not wish to hinder businesses any more than what they have already experienced with the shutdown associated with COVID-19, and she would also like to meet with the consultant to discuss some alcohol-related issues in her Ward. COUNCILMAN ANTHONY commented the point of the ordinance was to allow a small business to hire a third party to deliver alcohol to help them stay in business. He was concerned about delaying it any further, especially considering the consultant did not have any objections to it moving forward. He thought they should pass the bill to allow businesses to start making a profit, and address any other issues through an amendment in the future.

COUNCILMAN KNUDSEN said he could support this moving forward with a potential amendment at the City Council meeting, as it would set the precedent for other jurisdictions, and it was also important to consider the impact this would have on gaming properties.

COUNCILMAN ANTHONY asked for direction, and discussion took place regarding bringing the bill back for further changes. MR. DOROCAK indicated language could be drafted relatively quickly, and provided various scenarios regarding bringing an amendment back for discussion either before the Recommending Committee or the City Council.

COUNCILWOMAN FIORE did not think it made sense to pass a bill only to bring back an amendment to fix it. She reiterated she would like to meet with the consultant and suggested abeying the item for two weeks. SENIOR DEPUTY CITY CLERK JACQUIE MILLER and MR. DOROCAK provided COUNCILMAN ANTHONY with the dates of the next Recommending Committee meeting and the City Council meeting in which a vote could be taken if it were abeyed.

COUNCILMAN ANTHONY confirmed that the wish was for another amendment to be presented to preclude businesses from delivering on their own to nonrestricted gaming locations. MR. DOROCAK stated staff would draft an amendment to be presented to the Committee on January 19, 2021, but it would be published in its current form so as to be available to vote on at the January 20, 2021 City Council meeting.

COUNCILMAN KNUDSEN asked if the amendment would supersede the emergency ordinance, to which MR. DOROCAK confirmed. COUNCILWOMAN FIORE added additional issues may be brought forward subsequent to her meeting with the consultant.

MR. DOROCAK pointed out the draft of the additional amendment will not prohibit grocery stores from delivering to nonrestricted gaming properties because they currently are allowed to do so. Prohibiting them from doing so would require a new bill and new business impact statement. Instead, the amendment will include a grandfather clause for existing grocery stores, but will prohibit delivery by such after the grandfathering in date. In response to the question by COUNCILMAN ANTHONY as to who would be impacted besides grocery stores, MR. DOROCAK explained it would only impact grocery stores in existence up to the grandfather date; however, a casino can still prohibit deliveries as mentioned earlier.

COUNCILMAN ANTHONY declared the Public Hearing closed.

Motion made by Michele Fiore to Hold in Abeyance to 1/19/2021

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

For-Michele Fiore, Stavros Anthony, Brian Knudsen;

4. Citizens Participation: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the Committee. No subject may be acted upon by the Committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name and correct spelling for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited.

Minutes:

None.

5. Adjournment

Minutes:

The meeting was adjourned at 10:39 a.m.

Respectfully submitted:

Cheyenne LaRance, Deputy City Clerk

Minutes Prepared by:

Debra A. Outland, Deputy City Clerk

THIS MEETING WAS PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS
IN ACCORDANCE WITH THE STATE OF NEVADA EXECUTIVE DEPARTMENT
DECLARATION OF EMERGENCY DIRECTIVE 006
The City of Las Vegas website – www.lasvegasnevada.gov
and
The Nevada Public Notice Website – notice.nv.gov