



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: EXECUTIVE DIRECTOR OF COMMUNITY DEVELOPMENT TOM PERRIGO, DEPUTY CITY ATTORNEY JEFF DOROCK, CITY CLERK LUANN D. HOLMES and SR. DEPUTY CITY CLERK JACQUIE MILLER

2. Announcement Regarding: Compliance with Open Meeting Law

Minutes:

ANNOUNCEMENT MADE: This meeting has been properly noticed and posted at the following locations: City Hall, 495 South Main Street, 1st Floor; Clark County Government Center, 500 South Grand Central Parkway; Grant Sawyer Building, 555 East Washington Avenue; City of Las Vegas Development Services Center, 333 North Rancho Drive.

3. Bill No. 2019-31 - ABEYANCE ITEM - For possible action - Amends various provisions of the Unified Development Code (LVMC Title 19) to provide clarification and standardization relating to distance separation standards and measurements, clarify when access-related standards refer to vehicular access or pedestrian access (or both), and establish additional standards regarding the interpretation of terms. Proposed by: Robert Summerfield, Director of Planning

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

PETER LOWENSTEIN, Deputy Director of Planning, reported that this item is regarding public access throughout the code to clarify when access is vehicle, pedestrian or both. It also seeks to define distance separation based on current measurement techniques. There is a First Amendment, which clarifies a portion under the Animal Keeping and Husbandry section that the secure enclosed or fenced area is from that fence to the residential dwelling, school or individual care center, which is consistent with the current code.

HARRY LEE BATISTE stated that he is homeless. He said that he previously ran the non-profit People United for Justice, but he did not have the money to continue. He was concerned about a bill regarding homeless people sleeping on the sidewalks. COUNCILMAN ANTHONY explained that that bill was not being heard at this meeting, but would be introduced at the October 16, 2019 meeting. DEPUTY CITY ATTORNEY JEFF DOROCK added that it would be heard at the November 6, 2019 City Council meeting.

COUNCILWOMAN FIORE stated that MR. BATISTE was very articulate and was pleased he was interested in being part of this process. She wondered if he had been to the Corridor of Hope and thought he could get assistance finding employment. MR. BATISTE replied that he was familiar with the Courtyard, and he is an activist for homeless people.

COUNCILMAN ANTHONY declared the Public Hearing closed.

Subsequent to the motion and vote, COUNCILMAN ANTHONY announced that this bill will be recommended to the November 6, 2019 City Council meeting.

Motion made by Michele Fiore to Approve as Do Pass as a First Amendment

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

For-Stavros Anthony, Michele Fiore, Brian Knudsen;

4. Bill No. 2019-34 - For possible action - Amends the Town Center Development Standards Manual to allow the waiver of certain minimum distance separation requirements in relation to the use "Package Liquor Off-Sale Establishment." Sponsored by: Councilwoman Michele Fiore

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

PETER LOWENSTEIN, Deputy Director of Planning, reported that this bill seeks to allow a waivable provision of the distance separation between a Package Liquor and a similar use as well as a Tavern within the Town Center Special Area Plan.

COUNCILMAN ANTHONY declared the Public Hearing closed.

Subsequent to the motion and vote, COUNCILMAN ANTHONY announced that this bill will be recommended to the full City Council at the November 6, 2019 City Council meeting.

Motion made by Michele Fiore to Approve as Do Pass

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

For-Stavros Anthony, Michele Fiore, Brian Knudsen;

5. Bill No. 2019-35 - For possible action - Adds to LVMC Title 10 a new chapter to establish a City misdemeanor offense of "battery which constitutes domestic violence," along with corresponding penalties. Proposed by: Bradford R. Jerbic, City Attorney

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

DEPUTY CITY ATTORNEY JEFF DOROCAK provided a background for this item reporting that one month ago, the Nevada Supreme Court ruled that an individual charged with Nevada Revised Statute's misdemeanor of Battery Domestic Violence is entitled to a jury trial if so requested by the defendant. The Nevada Supreme Court reached this conclusion because in 2015, the Nevada State Legislature prohibited an individual from possessing any firearm if he or she was convicted of the misdemeanor crime of 'Domestic Violence' as defined by federal law. That decision created both logistical and jurisdictional dilemmas for the City of Las Vegas and other incorporated cities in Nevada. Logistically, the City's Municipal Court currently has no jury administration, no ability to summon a juror pool and no jury boxes. Jurisdictionally, a plausible argument can be made that the City's charter and the charters of sister cities do not permit the use of jury trials in municipal courts. With these issues, the interest of domestic violence victims and the rights of criminal defendants in mind, the Criminal and Civil Divisions of the Las Vegas City Attorney's Office crafted the subject legislative option. MR. DOROCAK noted that this bill is not unique to the City and does not use novel language, and similar proposals are being considered in the City of Henderson and the City of North Las Vegas. The definitions, penalties, fees and other requirements in this bill are taken directly from the state's Battery Domestic Violence law. This ordinance will allow the City's prosecutors to charge individuals under municipal code with the misdemeanor crime of 'battery which constitutes domestic violence' while maintaining the same penalties and counseling options found in State law, but without triggering the jury requirement because a domestic violence charge based on a municipal ordinance does not meet the federal definition of 'domestic violence'.

MR. DOROCAK reviewed the provision of the proposed ordinance as follows: Section 10 of the newly proposed Chapter 10.32 defines battery which constitutes domestic violence; Section 20 lays out imprisonment and fine penalties, requirements for counseling of convicted individuals and the court's ability to require drug and alcohol treatment. Lastly, an amendment of a minor word change on Page 1, Line 11 should read 'Title 10 of the Municipal Code of the City Las Vegas' rather than 'Title 10 Chapter 32 Section 10'. MR. DOROCAK recommended approval.

COUNCILMAN ANTHONY wanted to clarify that this bill is creating a battery domestic violence ordinance that mirrors the state's ordinance; everything is the same other than it does not trigger the confiscation of weapons, which means there is no requirement to have a jury trial. MR. DOROCAK confirmed that summarization was

correct. DEPUTY CITY ATTORNEY MARTIN ORSINELLI, Criminal Division, confirmed for COUNCILMAN ANTHONY that the subject statute provides a victim of battery domestic violence all of the rights and resources as the state's statute. MR. ORSINELLI added that this ordinance will include the enhancements, mandatory counseling, mandatory jail time and everything else that state statute requires that is not currently in the ordinance.

COUNCILMAN ANTHONY noted that the most important thing is that laws are in place to protect and provide help for the victim, and have requirements such as counseling for the offender.

MR. ORSINELLI stated that this ordinance is geared towards making sure the defendant does not do it again, and if they do, the penalties become harsher and the counseling is longer; if it happens a third time, it is a felony.

WILLIAM HORNE, Vice President of Strategies 360, appeared representing SafeNest, the largest provider for victims of domestic violence in Nevada. They objected to the ordinance as there are no provisions for weapon confiscation for those convicted of battery domestic violence. This is problematic as the state legislature put this provision in the statute in 2015 for the protection of victims, and removing it from this ordinance is an illegal circumvention of state statute, and it does not protect law enforcement or victims. SafeNest believes it would be more useful for the City Council to reach out to the leaders of the state legislature and GOVERNOR STEVE SISOLAK and request a special session to fix these issues. MR. HORNE understood that besides Boulder City, charters in all cities in southern Nevada prohibit jury trials. He opined that because the Supreme Court ruled it unconstitutional to charge someone with battery domestic violence and not give them a jury trial when requested is unconstitutional. MR. HORNE believed that if this ordinance is passed, defense counsel will sue because it is an improper use of the ordinance and there will be a standstill with no resolution. He recommended compliance and fixing the issues at hand, while still maintaining an atmosphere where victims of domestic violence are protected. MR. HORNE recommended denial.

LIZ ORTENBURGER, CEO of SafeNest, reported that the City of Las Vegas carries 55 percent of all misdemeanor cases for domestic violence in Nevada; an average of 4,500 cases per year. She thought that without the firearm provision, there would be a 500 percent higher chance of a homicide in a victim's home if a gun is present in a state that is second worst in the country for domestic violence homicides. In 2017, more officers were killed on domestic violence calls in the country than any other type of call. She expressed that removing the firearm provision is unsafe for the victims and for officers. MS. ORTENBURGER would like this ordinance delayed and for the stakeholders to be brought together. She did not think that removing a provision to make it work logistically for the City was the right move for victims and believed the homicide rates for victims and officers will increase. MS. ORTENBURGER recommended denial.

THERESA CRAWFORD, volunteer for Moms Demand Action for Gun Sense in America, concurred with MR. HORNE and MS. ORTENBURGER'S comments. She stated that domestic violence and guns are a deadly combination, especially in Nevada, which ranks in the top five states for women killed by men and more than half of those with a gun. She said that firearms need to be taken away from convicted abusers. MS. CRAWFORD stated that forty-six other states have figured out how to provide a jury trial to those convicted of similar crimes and felt that with more stakeholder meetings and legal analysis Nevada could find a solution.

WENDY STARKWEATHER, volunteer for Moms Demand Action for Gun Sense in America, was also opposed to this bill. She thought this proposal is a workaround that will further harm survivors if those convicted of domestic violence are allowed to keep their weapons. She urged the Committee members to work with Clark County and State officials to find a solution that will prioritize the survivors of domestic abuse over government convenience.

SASHA BREESE, volunteer for Moms Demand Action for Gun Sense in America, spoke in opposition of this bill. She stated that under both state and federal law, those convicted of misdemeanor crimes of domestic violence are prohibited from purchasing and possessing guns, and the City must identify solutions that prioritize public safety rather than suggesting workarounds to the problem. She said Nevada experienced the deadliest mass shooting in the nation's history on October 1, 2017 but most people do not realize that statistically, domestic and family violence is a driving factor in most mass shootings. An Everytown analysis of mass shootings revealed that the perpetrator shot a current or former intimate partner of family member in at least 54 percent of those incidents. MS. BREESE stated that victims and survivors of abuse must be protected by keeping guns out of the hands of domestic abusers, which will in turn help stop future mass shootings.

MR. ORSINELLI stated that staff researched the legality of this ordinance, and they know they will have to defend it, but he believed it is legal. He noted that nobody wants defendants to have guns, but unless there is a

conviction for domestic violence, guns are not removed. The City of Las Vegas does not currently have a domestic violence law and since this ruling came out, the City has been charging simple battery, not domestic violence battery, as there is no ability for the court to hold a jury trial at this time. Instead of fighting the state law, the City is trying to work with it to protect victims. This proposal will allow the City to hold defendants accountable until the legislature does something, which could take two years. MR. ORSINELLI stated that there are three choices: continue where there is no domestic violence law, defendants will be charged with simple battery and a request can be made to sentence the defendant to the domestic violence requirements, but the court does not have to follow it; the ordinance could be passed to protect victims and something will be in place until the legislature meets, noting that they do not want to hold a special session because they cannot agree on what to do; or send these cases to the District Attorney's office, who has indicated that they have a backlog of cases and cannot handle these trials. MR. ORSINELLI recommended approval.

COUNCILMAN ANTHONY requested clarification about this ruling being effective immediately, and MR. DOROCAK replied in the affirmative and said it was binding when it came out approximately one month ago. COUNCILMAN ANTHONY asked if someone who is convicted of a battery domestic violence charge could demand a jury trial, and MR. DOROCAK explained that if the defendant attempted to demand it, the City would lower the charges to simple battery because the court cannot currently do jury trials. COUNCILMAN ANTHONY stated that the defendant essentially wins, because they are being found guilty of simple battery, instead of battery domestic violence. They know this and so does their attorney, which is why they will demand a jury trial. Approving this ordinance would allow the City to elevate to domestic violence battery with the provisions of the state, but without the firearm provision. He assumed that if this is approved, everyone will get together to come up with a different solution for the future. MR. ORSINELLI stated that he has been involved in many meetings, but understood the legislature is not ready for a special session as there is not agreement in how to address this.

COUNCILMAN KNUDSEN stated that MR. ORSINELLI, MS. ORTENBURGER and ASSISTANT CITY ATTORNEY BRYAN SCOTT met in his office trying to identify opportunity for consensus on how the City should proceed. He believed there are longer term implications to this and did not feel comfortable making a decision at this meeting. He would like an opportunity to learn more about the implications of this decision and to brainstorm longer-term strategies with MR. ORSINELLI, MS. ORTENBERGER and MR. SCOTT so if this is adopted, obligations are understood regarding working with Clark County and the State in changing laws that are beneficial for the City of Las Vegas and the victims the City serves. He felt he did not currently have enough information to make this decision and was interested in a 30-day abeyance.

COUNCILWOMAN FIORE stated that she was familiar with the history of this situation, and she and MR. HORNE worked on this piece of legislature in 2015. She said that she is interested in facts, and when discussing a City ordinance that applies to the city, the numbers are skewed when people testify about national statistics. Due to COUNCILMAN KNUDSEN'S request to hold the item and her concern about timing as the Supreme Court ruling is effective now, she wished to move it to the full Council without a recommendation.

COUNCILMAN ANTHONY stated that he was in favor of this ordinance, and if it were delayed, people will be prosecuted for simple battery instead of battery domestic violence for another 30 to 45 days. He would support forwarding to the Council without a recommendation. COUNCILMAN KNUDSEN asked MR. ORSINELLI about the average time between an arrest and appearing in front of a judge now is currently, and MR. ORSINELLI replied that it varies. He explained that if people remain in custody, they may see a judge in a couple of days; some people are approximately three weeks out for an initial arraignment. He added that there can be two to eight defendants per day that are in custody that see a judge within 72 hours.

COUNCILMAN ANTHONY declared the Public Hearing closed.

Subsequent to the motion and vote, COUNCILMAN ANTHONY announced that this bill will be forwarded to the October 16, 2019 City Council meeting.

COUNCILWOMAN FIORE wished to make it clear that this ordinance takes the guns out of peoples' hands; if this is not passed, charges are simple battery and they get to keep their guns. She said this is needed to help with the legislation passed in 2015.

MR. DOROCAK clarified that if charged with simple battery, the person would keep their gun. Under the City's ordinance, the gun would also be kept because it is a city misdemeanor ordinance rather than what is described in the federal law, which is used in the State law. He reiterated that guns would be kept if charged with simple battery or under the proposed ordinance.

NOTE: The video does not reflect the vote accurately, in that COUNCILMEN ANTHONY and KNUDSEN verbally voted in the affirmative.

Motion made by Michele Fiore to Approve sending to the Full Council with no recommendation

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

For-Stavros Anthony, Michele Fiore, Brian Knudsen;

6. Bill No. 2019-37 - For possible action - Creates the City of Las Vegas, Nevada Tourism Improvement District (Area 15), located within the area bounded by Desert Inn Road to the south, Rancho Drive to the east and Sirius Avenue to the north. Sponsored by: Councilman Brian Knudsen

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

JASON THOMPSON, Deputy Director of Economic and Urban Development, appeared and introduced ATTORNEY JENNIFER LAZOVICH, Kaempfer Crowell, who was present on behalf of the developer. MR. THOMPSON explained that this bill creates a Tourism Improvement District (TID) for Area 15, a new unique experience-based retail project. It is being developed by Fisher Brothers, on approximately 15 acres and will contain 126,000 square feet of leasable space with around 800 parking spaces and will include a curated artistic interactive common area, indoor and outdoor event space, food cart and retail kiosk opportunities as well as an on-site commercial-grade kitchen commissary. It will be a 20-year TID and will be capped at lesser at 3.13 percent of the gross sales tax revenue or \$688,000 annually. The TID will only include the first phase of the project.

COUNCILWOMAN FIORE praised COUNCILMAN KNUDSEN for his efforts on this project and sees a great community partnership developing between Area 15 and the City. She hoped that the City is a real proponent of Area 15 and helps them with their endeavors.

COUNCILMAN KNUDSEN stated that this is one of the most exciting projects he has seen in the City in the long time. They have been working closely Area 15 and Meow Wolf, the anchor tenant at Area 15. He believed there will be many items that come before the City Council regarding infrastructure and the City's engagement with Area 15.

COUNCILMAN ANTHONY declared the public hearing closed.

Subsequent to the motion and vote, COUNCILMAN ANTHONY announced that this bill will be heard at the October 16, 2019 City Council meeting.

Motion made by Brian Knudsen to Approve as Do Pass

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

For-Stavros Anthony, Michele Fiore, Brian Knudsen;

7. Bill No. 2019-38 - For possible action - Annexation No. ANX-77014 - Property location: at the southeast corner of Lake Mead Boulevard and Fairhaven Street; Petitioned by: Suerte Siete, LLC; Acreage: 0.63 acres; Zoned: R-E (County zoning), R-E (City equivalent). Sponsored by: Councilman Cedric Crear

Minutes:

COUNCILMAN ANTHONY declared the Public Hearing open.

PETER LOWENSTEIN, Deputy Director of Planning, reported that everything was in order.

COUNCILMAN ANTHONY declared the Public Hearing closed.

Subsequent to the meeting, COUNCILMAN ANTHONY announced that this bill will be heard at the November 6, 2019 City Council meeting.

Motion made by Michele Fiore to Approve as Do Pass

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

For-Stavros Anthony, Michele Fiore, Brian Knudsen;

8. 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.

9. Adjournment

Minutes:

The meeting was adjourned at 10:43 a.m.

Respectfully submitted:

Jacquie Miller, Sr. Deputy City Clerk

THIS MEETING WAS PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Hall, 495 South Main Street, 1st Floor
Clark County Government Center, 500 South Grand Central Parkway
Grant Sawyer Building, 555 East Washington Avenue
City of Las Vegas Development Services Center, 333 North Rancho Drive