

S. ✓

City of Las Vegas

RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S EIGHTH FLOOR CONFERENCE ROOM
CITY OF LAS VEGAS INTERNET ADDRESS: www.lasvegasnevada.gov
AUGUST 4, 2009
9:00 A.M.

THE RECOMMENDING COMMITTEE WILL RECEIVE PUBLIC INPUT ON EACH ITEM OF LEGISLATION BEING CONSIDERED THE RECOMMENDING COMMITTEE MAY, THEREAFTER, CONTINUE THE HEARING TO A FUTURE DATE OR FORMULATE A RECOMMENDATION TO THE CITY COUNCIL FOR PASSAGE, REJECTION OR AMENDMENT OF THE PROPOSED BILL ANY MEMBER OF THE CITY COUNCIL MAY SUBSTITUTE FOR A MEMBER OF THE RECOMMENDING COMMITTEE AT ANY TIME

DUPLICATE AUDIO CDS MAY BE AVAILABLE AT A COST OF \$5 00 EACH THROUGH THE CITY CLERK'S OFFICE

1. CALL TO ORDER
2. ANNOUNCEMENT RE COMPLIANCE WITH OPEN MEETING LAW
3. Bill No 2009-32 – ABEYANCE ITEM - Authorizes under certain circumstances the administrative extension of temporary licensing approval and the administrative reinstatement of alcoholic beverage licenses suspended or revoked for nonpayment of license fees Proposed by Bradford R. Jerbic, City Attorney
4. Bill No 2009-33 – Revises the zoning regulations governing small wind energy systems (TXT-33703) Sponsored by Councilman Steven D. Ross
5. 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 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
6. ADJOURNMENT

ALL INTERESTED PERSONS ARE INVITED TO ATTEND Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Friday, 8 00 A M to 5 00 P M.

Facilities are provided throughout City Hall for the convenience of disabled persons Reasonable efforts will be made to assist and accommodate physically handicapped persons If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS
City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge
Bulletin Board, City Hall Plaza, (next door to Metro Records)
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S Grand Central Parkway
Grant Sawyer Building, 555 E Washington Avenue

28 ✓

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

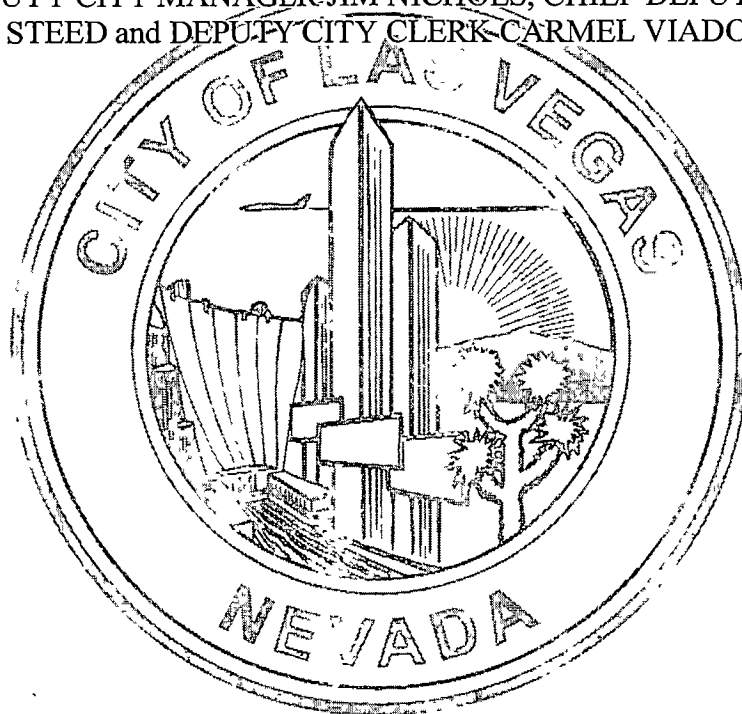
CALL TO ORDER

Minutes:

COUNCILMAN BARLOW called the meeting to order at 9:02 a.m.

PRESENT: COUNCILMEN BARLOW and ANTHONY

Also Present: DEPUTY CITY MANAGER-JIM NICHOLS, CHIEF DEPUTY CITY ATTORNEY VAL STEED and DEPUTY CITY CLERK-CARMEL VIADO



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

DEPARTMENT: CITY CLERK

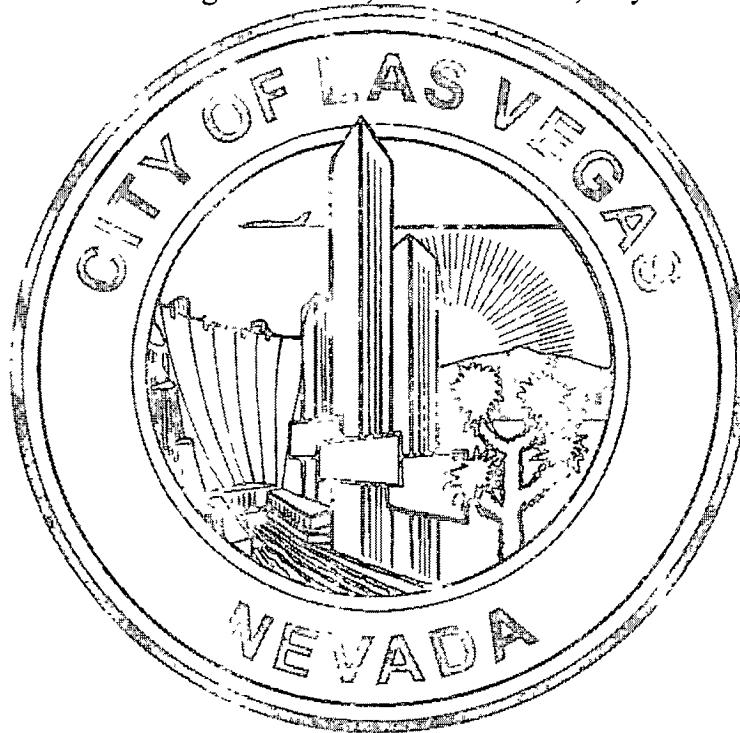
DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

Minutes:

ANNOUNCEMENT MADE - Meeting noticed and posted at the following locations: City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge; Clark County Government Center, 500 South Grand Central Parkway; Las Vegas Library, 833 Las Vegas Boulevard North; Grant Sawyer Building, 555 East Washington Avenue; Bulletin Board, City Hall Plaza (next to Metro Records)



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

Bill No. 2009-32 – ABEYANCE ITEM - Authorizes under certain circumstances the administrative extension of temporary licensing approval and the administrative reinstatement of alcoholic beverage licenses suspended or revoked for nonpayment of license fees. Proposed by: Bradford R. Jerbic, City Attorney

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will authorize the administrative extension of temporary licensing approval in certain cases where City Council action is unable to be taken in a timely manner through no fault of the licensee. The bill will also authorize the administrative reinstatement of alcoholic beverage licenses suspended or revoked for nonpayment of license fees. Such reinstatement will be available only within a limited time following suspension or revocation and will be subject to the payment of a reinstatement fee. This item was held in abeyance at the 7/14/2009 Recommending Committee meeting.

RECOMMENDATION:

Abeyance to the 8/4/2009 Recommending Committee by the 7/14/2009 Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2009-32
2. Business Impact Statement
3. Proposed First Amendment
4. Submitted at meeting – Opposition letter by the Charleston Neighborhood Preservation

Motion made by STAVROS S. ANTHONY to Approve as Second Amendment

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

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

RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

Minutes:

CHIEF DEPUTY CITY ATTORNEY VAL STEED stated that under the Code, if an alcoholic beverage licensee misses his or her semi-annual liquor fee payment and the fee and penalties remain unpaid, that license is revoked after 60 days. This bill would suspend the license after 60 days and create a grace period, which would allow licensees an opportunity to pay the fee and penalties without restart the licensing process. This bill includes an opportunity for reinstatement for licenses have been revoked for non-payment of fees. This bill would clarify that a temporary license cannot be sold, transferred or assigned. It would also require that the Business Manager formally grant inactive or non-operational status for temporary licenses.

JIM DiFIORE, Business Services Manager, explained that this bill was brought forward in response to the current economic difficulties experienced by alcohol-related industries. Privileged license holders would have an opportunity to correct the status of a revoked or suspended license due to non-payment of fees through full payment of the fees and a penalty for a short period of time.

COUNCILMAN BARLOW expressed concern with the length of time a privileged license could remain inactive before it is revoked. MR. DiFIORE explained that this bill would allow licensees to reinstate the license before it is revoked due to non-payment of fees, which is not currently permitted. The licensee would be required to pay all fees owed and a penalty.

CHIEF DEPUTY CITY ATTORNEY STEED clarified that the bill addressed two different circumstances. Under this bill, any future licensees who fail to pay the fees would have their license suspended for non-payment and would have a period of 10 days to pay the fees and the penalty. If payment has not been made after the 10-day period has expired, the license would be revoked. Licensees who have had their licenses revoked for non-payment in the past would be given a 90-day period to pay the fees and the penalty to have the license reinstated.

COUNCILMAN BARLOW suggested that revoked licensees be granted 60 days to pay the fees and the penalty and COUNCILMAN ANTHONY concurred. CHIEF DEPUTY CITY ATTORNEY STEED noted that suspended licensees would have until 5 p.m. on the 10th calendar day to pay the fees and penalty. When the 10th calendar day falls on Saturday or Sunday, the licensee would have until close of business on the following Monday to pay the fees and penalty. MR. DiFIORE added that the license would automatically be revoked after the 10th day if the fees and penalty were not paid.

JUANITA CLARK, Charleston Neighborhood Preservation, read and submitted a letter of opposition for the record. She stated that only Mayor and City Council should the authority to grant or reinstate a liquor license. CHIEF DEPUTY CITY ATTORNEY STEED clarified that the Business Licensing Director does not have the authority to revoke a privileged license. The license is automatically revoked if the fees have not been paid within the required length of time.

1 **BILL NO. 2009-32**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE RELATING TO BUSINESS LICENSING; AUTHORIZING UNDER CERTAIN
4 CIRCUMSTANCES THE ADMINISTRATIVE EXTENSION OF TEMPORARY LICENSING
5 APPROVAL AND THE ADMINISTRATIVE REINSTATEMENT OF ALCOHOLIC BEVERAGE
6 LICENSES SUSPENDED OR REVOKED FOR NONPAYMENT OF LICENSE FEES; AND
7 PROVIDING FOR OTHER RELATED MATTERS.

8 Proposed by: Bradford R. Jerbic, City Attorney Summary: Authorizes under certain
9 circumstances the administrative extension of
10 temporary licensing approval and the
11 administrative reinstatement of alcoholic
12 beverage licenses suspended or revoked for
13 nonpayment of license fees.

14 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN

15 AS FOLLOWS:

16 SECTION 1: Title 6, Chapter 2, Section 30, of the Municipal Code of the City of Las
17 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

18 **6.02.030:** It shall be the duty of the Director to administer the provisions of this Title unless
19 provided otherwise herein. Notwithstanding any other provision of this Title, the Director shall have
20 the authority to extend temporary licensing approval beyond that otherwise available under this Title
21 in cases where unforeseen circumstances, such as technical or agenda-related difficulties, prevent
22 Council action from being taken in a timely fashion. Unless the circumstances otherwise dictate, the
23 extension of temporary licensing approval shall not extend beyond the next occasion at which Council
24 consideration can properly take place.

25 SECTION 2: Title 6, Chapter 50, Section 370, of the Municipal Code of the City of
26 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

27 **6.50.370:** (A) Each semiannual fee is due in advance on April 1st and October 1st in each year
28 except that the applicant for a new alcoholic beverage license who starts business between April 1st
and October 1st or between October 1st and April 1st shall have its semiannual fees prorated on a
monthly basis.

(B) Any semiannual fee which is not received by the Department on or before the
due date shall be assessed a late-payment penalty in an amount equal to ten percent of the amount of

1 such semiannual fee. If the semiannual fee and penalty is not received by the Department within
2 fifteen days after the due date, an additional penalty in an amount equal to twenty-five percent of such
3 semiannual fee shall be assessed. If the semiannual fee and all penalties are not received by the
4 Department within sixty days after the due date, the license shall be automatically
5 [revoked.]suspended

6 (C) A license that has been suspended for nonpayment of license fees and penalties
7 may be reinstated by the Director to full standing if the licensee pays the delinquent license fees and
8 penalties, plus an additional reinstatement fee in an amount equal to one-half of the semiannual license
9 fee for such business. The reinstatement fee is exclusive of the regular semiannual alcoholic beverage
10 license fee for that license. The fees and penalties required to be paid pursuant to this Subsection (C)
11 shall be paid not later than ten calendar days following the date of suspension of the license or, if the
12 tenth day falls on a weekend or holiday, the next business day. The license shall be deemed
13 automatically revoked if such fees and penalties are not paid in accordance with this Section.

14 (D) A license that, under a previous version of this Section, was automatically
15 revoked for nonpayment of license fees and penalties may be reinstated by the Director to full standing
16 if the licensee, within ninety days after the revocation, pays the delinquent license fees and penalties,
17 plus an additional reinstatement fee in an amount equal to the semiannual license fee for such
18 business. The reinstatement fee is exclusive of the regular semiannual alcoholic beverage license fee
19 for that license.

20 SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or
21 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
22 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
23 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
24 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
25 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
26 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
27 invalid or ineffective.

28 . . .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECTION 4. All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2009.

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, CMC
City Clerk

APPROVED AS TO FORM:
Val Hood 6-17-09
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2009, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2009, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, CMC
City Clerk

**BUSINESS IMPACT STATEMENT
BILL NO. 2009-32**

(Authorizes under certain circumstances the administrative extension of temporary licensing approval and the administrative reinstatement of alcoholic beverage licenses suspended or revoked for nonpayment of license fees)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2009-32, that would authorize under certain circumstances the administrative extension of temporary licensing approval and the administrative reinstatement of alcoholic beverage licenses suspended or revoked for nonpayment of license fees.

1. The following constitutes a description of the number of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Not applicable

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

None

Beneficial effects:

In certain cases, businesses otherwise having to reapply for licensing will be able to get approval sooner and at less expense.

Direct effects:

In certain cases, businesses otherwise having to reapply for licensing will be able to get approval sooner and at less expense.

Indirect effects:

None

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Unknown. Amount collected will depend on number of applications to which it applies, and implementation will actually result in lower fee amounts collected by the City than would be the case without the ordinance.

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Pay for the benefits conferred by the ordinance.

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains when such duplicative or more stringent provisions are necessary:

Not applicable

Date: June 18, 2009

FIRST AMENDMENT

BILL NO. 2009-32

ORDINANCE NO. _____

AN ORDINANCE RELATING TO BUSINESS LICENSING; AUTHORIZING UNDER CERTAIN CIRCUMSTANCES THE ADMINISTRATIVE EXTENSION OF TEMPORARY LICENSING APPROVAL AND THE ADMINISTRATIVE REINSTATEMENT OF ALCOHOLIC BEVERAGE LICENSES SUSPENDED OR REVOKED FOR NONPAYMENT OF LICENSE FEES; CLARIFYING THE STATUS AND NATURE OF TEMPORARY LICENSES; AND PROVIDING FOR OTHER RELATED MATTERS.

Proposed by: Bradford R. Jerbic, City Attorney

Summary: Authorizes under certain circumstances the administrative extension of temporary licensing approval and the administrative reinstatement of alcoholic beverage licenses suspended or revoked for nonpayment of license fees, and clarifies the status and nature of temporary licenses.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN

AS FOLLOWS:

SECTION 1: Title 6, Chapter 2, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 35, reading as follows:

6.02.035: (A) Notwithstanding any other provision of this Title, the Director shall have the authority to extend temporary licensing approval beyond that otherwise available under this Title in cases where unforeseen circumstances, such as technical or agenda-related difficulties, prevent Council action from being taken in a timely fashion. Unless the circumstances otherwise dictate, the extension of temporary licensing approval shall not extend beyond the next occasion at which Council consideration can properly take place.

(B) No temporary license issued under this Title may be sold, transferred or assigned while under temporary status.

(C) The holder of a license under temporary status may request that the license be withdrawn or put into inactive or non-operational status, but the request shall not be deemed granted until affirmative action to do so has been taken by the Director.

SECTION 2: Title 6, Chapter 50, Section 370, of the Municipal Code of the City of

Submitted At Meeting

Date

item # 6

7/14/09

1 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

2 **6.50.370:** (A) Each semiannual fee is due in advance on April 1st and October 1st in each year
3 except that the applicant for a new alcoholic beverage license who starts business between April 1st
4 and October 1st or between October 1st and April 1st shall have its semiannual fees prorated on a
5 monthly basis.

6 (B) Any semiannual fee which is not received by the Department on or before the
7 due date shall be assessed a late-payment penalty in an amount equal to ten percent of the amount of
8 such semiannual fee. If the semiannual fee and penalty is not received by the Department within
9 fifteen days after the due date, an additional penalty in an amount equal to twenty-five percent of such
10 semiannual fee shall be assessed. If the semiannual fee and all penalties are not received by the
11 Department within sixty days after the due date, the license shall be automatically
12 ~~[revoked.]~~suspended.

13 (C) A license that has been suspended for nonpayment of license fees and penalties
14 may be reinstated by the Director to full standing if the licensee pays the delinquent license fees and
15 penalties, plus an additional reinstatement fee in an amount equal to one-half of the semiannual license
16 fee for such business. The reinstatement fee is exclusive of the regular semiannual alcoholic beverage
17 license fee for that license. The fees and penalties required to be paid pursuant to this Subsection (C)
18 shall be paid not later than ten calendar days following the date of suspension of the license or, if the
19 tenth day falls on a weekend or holiday, the next business day. The license shall be deemed
20 automatically revoked if such fees and penalties are not paid in accordance with this Section.

21 (D) A license that, under a previous version of this Section, was automatically
22 revoked for nonpayment of license fees and penalties may be reinstated by the Director to full standing
23 if the licensee, within ninety days after the revocation, pays the delinquent license fees and penalties,
24 plus an additional reinstatement fee in an amount equal to the semiannual license fee for such
25 business. The reinstatement fee is exclusive of the regular semiannual alcoholic beverage license fee
26 for that license.

27 SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or
28 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or

1 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
2 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
3 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
4 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
5 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
6 invalid or ineffective.

7 SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases,
8 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
9 1983 Edition, in conflict herewith are hereby repealed.

10 PASSED, ADOPTED and APPROVED this ____ day of _____, 2009.

11 APPROVED:

12
13 By _____
OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 _____
16 BEVERLY K. BRIDGES, CMC
City Clerk

17 APPROVED AS TO FORM:

18 _____
Date

19
20
21
22
23
24
25
26
27
28

28
27
26
25
24
23
22
21
20
19
18
17
16
15
14
13
12
11
10
9
8
7
6
5
4
3
2
1

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2009, and referred to the following committee composed of _____ and _____ for recommendation; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2009, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:

VOTING "AYE": _____
VOTING "NAY": _____
ABSENT: _____

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, CMC
City Clerk



CHARLESTON NEIGHBORHOOD PRESERVATION

"Doing things today that will improve tomorrow"

Phone/Fax: 702-877-2438

July 31, 2009

Dear RECOMMENDING COMMITTEE:

Regarding item #3 of the August 4, 2009 agenda, **Bill number 2009-32**, we adamantly oppose the approval of this bill to become an ORIDINANCE.

We do not imagine any circumstance which justifies our elected mayor and councilpersons to grant the approval of a liquor license to a 'Director'.

The granting of a temporary license by the Director, allowed in paragraph A of Section 35, --6.02.035, surely creates great hardship to that business should the mayor and council find need to revoke or suspend that temporarily granted license. We see little advantage in allowing the doors to open when loss of business and derogatory rumors follow would follow a closure.

We see great DISadvantage in granting such power to an unelected person because the determination of the license fee paid and determination of the penalties paid and the determination whether the 90 day window was met, are all at the will of the Director.

Can the revocation be replaced with the suspension while retaining the approval only by the elected mayor and councilpersons?

Please rework Bill number 2009-32 to maintain the power of reinstatement with elected officials before a body of the public.

Sincerely,

June Ingram
C N P President

Charleston Neighborhood Preservation President June Ingram and Board

Submitted At Meeting

Date 8/4/09 Item # 3

BOARD & ADVISORY MEMBERS

Dennis Ardine-Vicki Arnold-Dick Bratton-Erna Clark-Juanita Clark-Miriam Een- Danielle Hanslip-Rose Honrath-June Ingram-Rick Johnson-Jolanta Krol-Rod & Betty Larsen- Geno & Pearl Lonardo-Flo Montalvo-Dorothy Orr-Jim Seward-Pamela Stanchiffe-Tim Volz-Marcus Gobel-Ginger Norton-Denise Reitz-Lavne Rushforth-Jeanine Sweany-Julia Whaup-Jean Withers- Others

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

Bill No. 2009-33 – Revises the zoning regulations governing small wind energy systems. (TXT-33703) Sponsored by: Councilman Steven D. Ross

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will revise the zoning regulations governing small wind energy systems, expanding the zoning districts and circumstances in which such systems may be used in connection with both residential and nonresidential development. The revisions are consistent with State law, as well as with City plans and policies that encourage the use of alternative energy sources. The revisions include provisions to ensure that the use of such systems is compatible with surrounding uses.

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. 2009-33

Motion made by STAVROS S. ANTHONY to Approve as First Amendment

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

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

Minutes:

FLINN FAGG, Planning and Development Department, explained that this bill would change current City regulations regarding wind energy systems. Wind energy systems would be allowed in some commercial districts, there would be no minimum parcel size requirement and the setbacks would be different if the parcel is less than or greater than 20,000 square feet. When a parcel is less than 20,000 square feet, the wind energy system would be required to be installed on the principal structure.

RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

COUNCILMAN ROSS thanked staff for bringing this bill to the Recommending Committee and he thanked the Planning Commission for their hard work. He explained that this bill is an important symbol in establishing the City as a leader in sustainability. He proposed several amendments which included allowing the homeowner, a structural engineer or contract to decide whether or not to place the wind energy systems on the principal structure. Homes that are not currently up to Code would not be able to participate in this program without this change. He recommended that a Special Use Permit be required for wind energy systems on parcels smaller than 20,000 square feet or if more than one wind energy system is desired on the property. This will ensure the neighbors receive adequate notification. He also made several recommendations on the appropriate height of the systems for each zoning designation and stated he would provide his proposed amendments to CHIEF DEPUTY CITY ATTORNEY VAL STEED.

MR. FAGG suggested allowing staff an opportunity to rewrite the ordinance to verify that it reads correctly and COUNCILMAN ROSS expressed his opposition to holding the bill in abeyance. He explained that several months of work have gone into this bill and recommended moving it forward.

In response to COUNCILMAN BARLOW'S question, MR. FAGG explained that if a homeowner wished to install a wind energy system attached to the primary structure, that use would be allowed as a conditional use.

In response to COUNCILMAN ANTHONY'S inquiry, COUNCILMAN ROSS explained that there are several different wind energy systems with the typical system consisting of a pole with a wind generator and a propeller. He pointed out that the technology has improved and reduced the noise generated by the system. NANCY TABOR, McEane Electric, thanked staff for their hard work on this bill and shared pictures of different wind energy systems with COUNCILMEN BARLOW and ANTHONY. She noted that several customers were interested in this technology and were waiting for changes in the Code which would allow them to take advantage of the rebate programs supporting renewable energy.

CHIEF DEPUTY CITY ATTORNEY STEED suggested that the language requiring the Special Use Permit is unnecessary as the Code currently requires a Special Use Permit if a property owner cannot obtain a conditional use permit due to special circumstances. He noted that this ordinance could not address Building Code issues, but COUNCILMAN ROSS' other proposed changes could be discussed during the City Council meeting.

BILL NO. 2009-33

ORDINANCE NO. _____

AN ORDINANCE TO REVISE THE ZONING REGULATIONS GOVERNING SMALL WIND ENERGY SYSTEMS, AND PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Steven D. Ross Summary. Revises the zoning regulations governing small wind energy systems.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Table 2 of the Land Use Tables adopted in Title 19, Chapter 4, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by amending the entry for the use "Small Wind Energy System," as found in the "Utilities, Communication and Transportation" element of Table 2, to read as follows:

Table 2 – Land Use Table																					
Utilities, Communication and Transportation																					
P = Permitted Use					C = Conditional Use (Permitted with Conditions)								S - Special Use Permit Required								
A = Accessory Use					H = Home Occupation Permit								T = Temporary Commercial Permit Required (Per Section 19 18 100)								
USE	RESIDENTIAL												COMMERCIAL				INDUSTRIAL				
Small Wind Energy System	U	R-A	R-E	R-D	R-1	R-CL	R-2	R-3	R-4	R-5	R-MH	R-MHP	P-R	N-S	O	C-D	C-1	C-2	C-PB	C-M	M
		C	C	C	C								C		C		C	C	C	C	C
<p>Description: A wind energy conversion system consisting of a wind turbine, a tower or supporting structure, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended primarily to reduce on-site consumption of utility power. The use is not to be deemed an accessory structure.</p>																					
<p>Conditional Use Regulations:</p> <ol style="list-style-type: none"> 1. [The minimum parcel size shall be two acres (net). 2.] No small wind energy system is eligible for approval if all or part of the property is within a conservation easement or scenic highway corridor, or is listed on the State or National Registers of Historic Places, unless the applicant submits satisfactory evidence that the addition of a small wind energy system is not a violation of the rules that govern the development of the property. 3. The tower height (meaning the height above grade of the fixed portion of the tower, excluding the wind turbine itself) may not exceed the lesser of the following: <ol style="list-style-type: none"> a. The maximum height recommended by the manufacturer or distributor of the system, as demonstrated by evidence included with the application; or b. A height of 90 feet for a qualifying parcel less than 2 net acres in size, or a height of 110 feet on a parcel of 5 net acres or more in size] <p>2. <u>On parcels under 20,000 square feet in size, the system</u></p> <ol style="list-style-type: none"> a. <u>Shall be directly mounted on or attached to the principal structure on the site</u> b. <u>Shall not extend more than 10 feet above the highest point of the roof of the principal</u> 																					

1		<u>structure, measured with reference to the highest point of the fixed structure to which the system is attached (but excluding the wind turbine).</u>
2	3.	<u>On parcels 20,000 square feet in size or larger:</u>
3	a.	<u>The system may be directly mounted on or attached to the principal structure on the site, or may be mounted on a freestanding tower. Where possible, the system should be integrated with other structures, such as buildings, light poles or on-premise sign structures, so as to minimize visual impacts</u>
4	b.	<u>The system shall not extend to a height greater than 65 feet for residential parcels, or 90 feet for nonresidential parcels, measured with reference to the highest point of the fixed structure to which the system is attached (but excluding the wind turbine).</u>
5	c.	<u>When the system is mounted on a freestanding tower, the tower and any guy-wires or other supports shall comply with all minimum setbacks for the property, and the tower shall be set back from any habitable structure on an adjacent property a distance at least as great as the height of the tower.</u>
6	4	[In the R-D Zoning District, the entire system must be set back at least 30 feet from the front property line and at least 10 feet from the side and rear property lines. In the R-A and R-E Zoning Districts, the entire system must be set back at least 50 feet from the front and side property lines, and at least 10 feet from the rear property line.] <u>No more than one system shall be permitted on a parcel of land.</u>
7	5.	[No part of a system, including guy wire anchors, may be closer to any residential building or outbuilding than the sum of the following distances: the length of the tower, plus half the length of the blade diameter, plus an additional 10 feet.
8	6.	A] <u>The system shall be constructed and maintained so that noise levels do not exceed 60dBA, as measured by a sound level meter at the closest neighboring inhabited dwelling. However, this level may be exceeded during short term events such as utility outages or severe windstorms</u>
9	[7 6.	<u>The applicant must submit proof of turbine certification approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.</u>
10	[8 7.	<u>A system must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Such approvals must be received prior to the submittal of a building permit application. For locations within the Airport Overlay District, the system must comply with all regulations and requirements applicable to that district</u>
11	[9 8.	<u>A system must comply with all applicable fire codes and building codes</u>
12	[10 9.	<u>A building permit application for a system must be accompanied by:</u>
13	a.	<u>Standard drawings of the wind turbine structure including base, tower and footings,</u>
14	b.	<u>An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer, and</u>
15	c.	<u>A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code</u>
16	[11 10.	<u>Before the installation of a system, the applicant must provide satisfactory evidence that the electrical utility provider has been informed of the applicant's intent to install a system. An off-grid system shall be exempt from this requirement if the property is not served by an electrical utility provider.</u>
17	[12 11.	<u>No system shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building.</u>
18	[13 12.	<u>Except with respect to Conditional Use Regulations 2, 3, 4 and 10, [The] the Special Use Permit provisions of Section 19.04.040(B) do not apply to this use.</u>

SECTION 2: Ordinance No. 6041 and Title 19, Chapter 8, Section 60, Subsection (B), Paragraph (3), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended so that Paragraph (3) reads as follows:

1 (3) Exceptions.

2 (a) The following structures may project a maximum of twelve feet above the Proximity
3 Slope:

4 (i) Chimney and vent stacks.

5 (ii) Roof structures for the use of solar panel units, elevators, stairs, tanks,
6 ventilation and similar necessary mechanical equipment.

7 (iii) Visual screens which surround mounted mechanical equipment.

8 (iv) Skylights.

9 (v) Whip and mounted antennas.

10 (b) Church steeples, utility transmission lines and towers, wireless communication
11 facilities when attached to a utility transmission line pole or tower, small wind energy systems, and
12 municipal utility facilities such as water towers are exempt from the maximum height provisions.

13 SECTION 3: Title 19, Chapter 20, Section 20, of the Municipal Code of the City of
14 Las Vegas, Nevada, 1983 Edition, is hereby amended to amend the definition of "Small Wind Energy
15 System" to read as follows:

16 "Small Wind Energy System" means a wind energy conversion system consisting of a wind turbine,
17 a tower or supporting structure, and associated control or conversion electronics, which has a rated
18 capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of
19 utility power. For purposes of this Title, the use shall not be deemed an accessory structure.

20 SECTION 4: For purposes of Section 2.100(3) of the City Charter, LVMC 19.04.010,
21 19.08.060 and 19.20.020 are deemed to be subchapters rather than sections.

22 SECTION 5: If any section, subsection, subdivision, paragraph, sentence, clause or
23 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
24 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
25 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
26 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
27 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
28 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,

1 invalid or ineffective.

2 SECTION 6: All ordinances or parts of ordinances or sections, subsections, phrases,
3 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
4 1983 Edition, in conflict herewith are hereby repealed.

5 PASSED, ADOPTED and APPROVED this ____ day of _____, 2009.

6 APPROVED:

7
8 By _____
OSCAR B. GOODMAN, Mayor

9 ATTEST:

10 _____
11 BEVERLY K. BRIDGES, CMC
City Clerk

12 APPROVED AS TO FORM:

13 Val Steed 6-30-09
Date

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2009, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2009, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____
9 VOTING "NAY": _____
10 ABSENT: _____

11
12 APPROVED:

13
14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, CMC
City Clerk

18
19
20
21
22
23
24
25
26
27
28

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

DEPARTMENT: CITY CLERK
DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

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 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:

TEDDY RUSSELL, Las Vegas resident, expressed his support of Bill No. 2009-33 and thanked COUNCILMAN ROSS and staff for their hard work on the bill. He noted current national and international efforts to reduce global warming and added that the Fou Ruvo Brain Institute would be opening soon.



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: AUGUST 4, 2009

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

Consent Discussion

SUBJECT:

ADJOURNMENT

Minutes:

Meeting adjourned at 9:41 a.m.

Respectfully submitted,

Carmel Viado

Carmel Viado, Deputy City Clerk II
August 4, 2009

