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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
JUNE 15, 2010
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. 2010-23 – Clarifies that the license fees imposed on a public utility pursuant to LVMC Chapter 6.67 may be collected from a governmental entity that is a customer of the public utility.
Proposed by: Bradford R. Jerbic, City Attorney
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 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
5. 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

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AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: JUNE 15, 2010

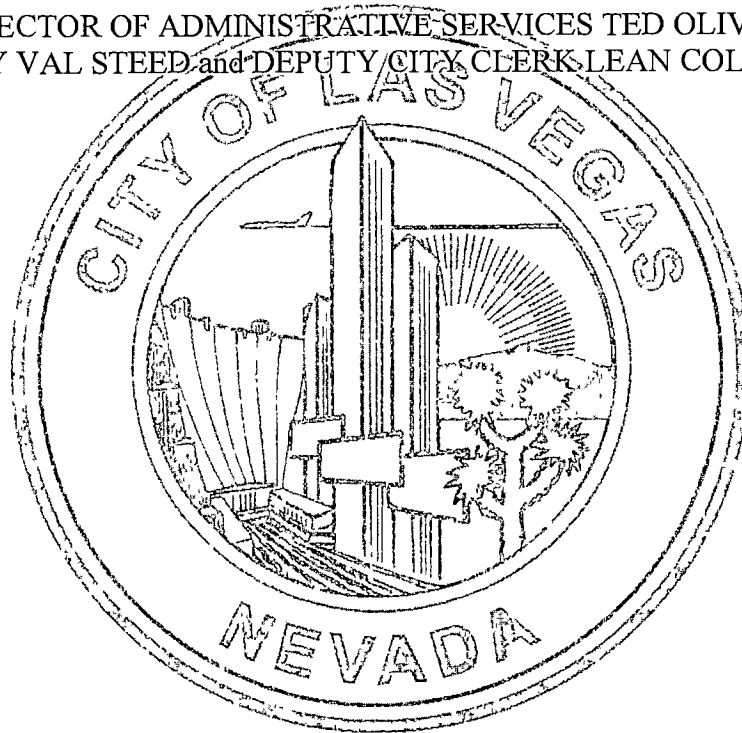
DEPARTMENT: CITY CLERK
DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:
CALL TO ORDER

Minutes:
COUNCILMAN BARLOW called the meeting to order at 9:01 a.m.

PRESENT: BARLOW and ANTHONY

Also Present: ~~DIRECTOR OF ADMINISTRATIVE SERVICES TED OLIVAS, DEPUTY CITY ATTORNEY VAL STEED and DEPUTY CITY CLERK LEAN COLEMAN~~



AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: JUNE 15, 2010

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: JUNE 15, 2010

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT:

Bill No. 2010-23 – Clarifies that the license fees imposed on a public utility pursuant to LVMC Chapter 6.67 may be collected from a governmental entity that is a customer of the public utility.
Proposed by: Bradford R. Jerbic, City Attorney

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Pursuant to LVMC Chapter 6.67, the City imposes license fees on public utilities, which in turn are passed through to customers of those public utilities. Recently, there has been a challenge to the authority under which local governments, including the City, have authorized or mandated the payment of those fees by utility customers that are governmental entities. This bill will clarify that such entities are (and have been) subject to the payment of City-imposed utility license fees to the same extent as other utility customers.

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. 2010-23
- 2 Business Impact Statement

Minutes:

DEPUTY CITY ATTORNEY VAL STEED explained that a question was raised whether or not the City had the authority to collect license fees from customers who are governmental entities. There is a clause within our general licensing provisions that states the City does not collect licensing fees from governmental entities; however, it was intended to mean that the City does not license governments. If approved, this bill would clarify what currently exists within the Code, which is the City's ability to collect such fees. Staff recommended approval.

Subsequent to the adjournment of the meeting, DEPUTY CITY ATTORNEY VAL STEED announced that this bill is eligible for adoption at the 6/16/2010 City Council meeting.

1 **BILL NO. 2010-23**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO CLARIFY THAT THE LICENSE FEES IMPOSED ON A PUBLIC UTILITY
4 PURSUANT TO LVMC CHAPTER 6.67 MAY BE COLLECTED FROM A GOVERNMENTAL
5 ENTITY THAT IS A CUSTOMER OF THE PUBLIC UTILITY, AND TO PROVIDE FOR OTHER
6 RELATED MATTERS.

6 Proposed by: Bradford R. Jerbic, City Attorney

Summary: Clarifies that the license fees imposed on a public utility pursuant to LVMC Chapter 6.67 may be collected from a governmental entity that is a customer of the public utility.

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

10 AS FOLLOWS:

11 SECTION 1: Title 6, Chapter 2, Section 65, of the Municipal Code of the City of Las
12 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

13 **6.02.065:** Except as otherwise specifically provided in this Title, [Nothing] nothing in this Title,
14 including the imposition of any license fee or license tax, shall be deemed or construed to apply to
15 any:

16 (A) Person engaged in any of the professions or occupations hereinafter enumerated
17 solely as an employee of any other person who is properly licensed to conduct, manage or carry on any
18 such business unless specifically provided otherwise in Chapter 6.04 or any other provision of this
19 Title;

20 (B) Community theater as defined in NRS 364.130;

21 (C) Public bus transportation service for the carrying of passengers from place to
22 place within the City, which is owned or operated by a governmental entity; provided, however, this
23 exception does not apply to a private person who leases the service from the governmental entity for
24 business purposes;

25 (D) Nonprofit professional services organization that provides all of its professional
26 services to the public at no cost and has received its tax exempt status pursuant to Title 26 U.S.C.
27 Section 501(c);

28 (E) Professional person licensed by the State who works solely either as a principal

1 or employee for a nonprofit professional services organization that has tax exempt status pursuant to
2 Title 26 U.S.C. Section 501(c), if such organization provides all of its professional services to the
3 public at no cost; or

4 (F) Government entity or professional person licensed by the State who works
5 solely as an employee of a government entity.

6 SECTION 2: Title 6, Chapter 67, Section 10, of the Municipal Code of the City of
7 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

8 **6.67.010:** As used in this chapter, unless the context otherwise requires, the following words
9 [will] have the meanings ascribed to them as follows:

10 (A) "Customer located within the City" means a customer, including a
11 governmental entity, whose physical address is within the boundaries of the City.

12 (B) "Month" means a calendar month, or a portion thereof, when calculating the
13 penalty to be assessed due to the late payment of a license fee.

14 (C) "Public utility" means any business that provides:

15 (1) A telecommunications service, is required to hold a certificate of public
16 convenience and necessity issued by the Public Service Commission of Nevada, and derives intrastate
17 revenue from the provision of that service to retail customers;

18 (2) A commercial mobile radio service as that term is defined in 47 C.F.R.
19 Section 20.3 on the effective date of the ordinance codified in this chapter, or as later amended; or

20 (3) Electric energy or gas, whether or not the business is subject to
21 regulation of the Public Service Commission of Nevada.

22 (D) "Revenue" does not include:

23 (1) Any proceeds from the interstate sale of natural gas to a provider of
24 electric energy which holds a certificate of public convenience and necessity issued by the Public
25 Service Commission of Nevada.

26 (2) Any revenue of a provider of a telecommunications service other than
27 intrastate revenue.

28 SECTION 3: Title 6, Chapter 67, Section 90, of the Municipal Code of the City of

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

2 **6.67.090:** The license fees [charged to] imposed upon a public utility pursuant to this Chapter
3 must be collected by the public utility directly from its customers located within the City in proportion
4 to the amount of revenue the public utility derives from each of such customers, unless the City has
5 elected pursuant to NRS Chapter 354 to collect [said] those fees directly from the public utility's
6 customers located within the City. The public utility must show the customer's portion of the license
7 fee as a [surcharge] separate charge on the customer's bill. The fees imposed upon a public utility by
8 this Chapter shall be collected from a governmental entity if that entity is a customer of the public
9 utility.

10 SECTION 4: LVMC Chapter 6.67 was adopted by the City Council in 1996 in
11 response to Senate Bill (SB) 568 of the 1995 Session of the Nevada Legislation. SB 568 placed
12 limitations on the amount of franchise fees or license fees local governments could impose on a public
13 utility. In connection with the adoption of LVMC Chapter 6.67, it was the intent of the City Council
14 to have the amount of those fees paid by all customers of the public utility, including governmental
15 entities who are customers. In 1997 the Nevada Legislature adopted Assembly Bill (AB) 508 as a
16 follow-up to SB 568. AB 508, among other things, amended NRS 354.59887 to include a provision
17 specifically clarifying that local ordinances may require license fees charged to public utilities to be
18 paid by customers that are governmental entities of the state. The City Council believes that AB 508
19 was clarifying only, that it was not the only source of authority to enact an ordinance on the subject,
20 and that, in any case, its adoption gives force to the City Council's intent. For that reason, the City
21 Council intends for this Ordinance to apply to fees charged since the adoption of LVMC Chapter 6.67.
22 If it is subsequently determined that it is not legally permissible to apply this Ordinance in that
23 manner, the Ordinance shall be deemed to apply to fees charged since July 16, 1997, the effective date
24 of AB 508. If it is further determined that it is not legally permissible to apply this Ordinance in that
25 manner, the Ordinance shall be deemed to apply to fees charged after the day following publication
26 of this Ordinance.

27 SECTION 5: 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 6: 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 _____, 2010.

11 APPROVED:

12
13 By OSCAR B. GOODMAN, Mayor

14 ATTEST:

15 _____
16 BEVERLY K. BRIDGES, MMC
City Clerk

17 APPROVED AS TO FORM:

18 Valsted 5-20-10
Date

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BUSINESS IMPACT STATEMENT

BILL NO. 2010-23

(Clarifies that the license fees imposed on a public utility pursuant to LVMC Chapter 6.67 may be collected from a governmental entity that is a customer of the public utility)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2010-23, that will clarify that the license fees imposed on a public utility pursuant to LVMC Chapter 6.67 may be collected from a governmental entity that is a customer of the public utility.

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.

No comments were solicited. The proposed ordinance is clarifying only, preserves the status quo, and does not affect businesses.

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 identified

Beneficial effects:

None identified

Direct effects:

None identified

Indirect effects:

None identified

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

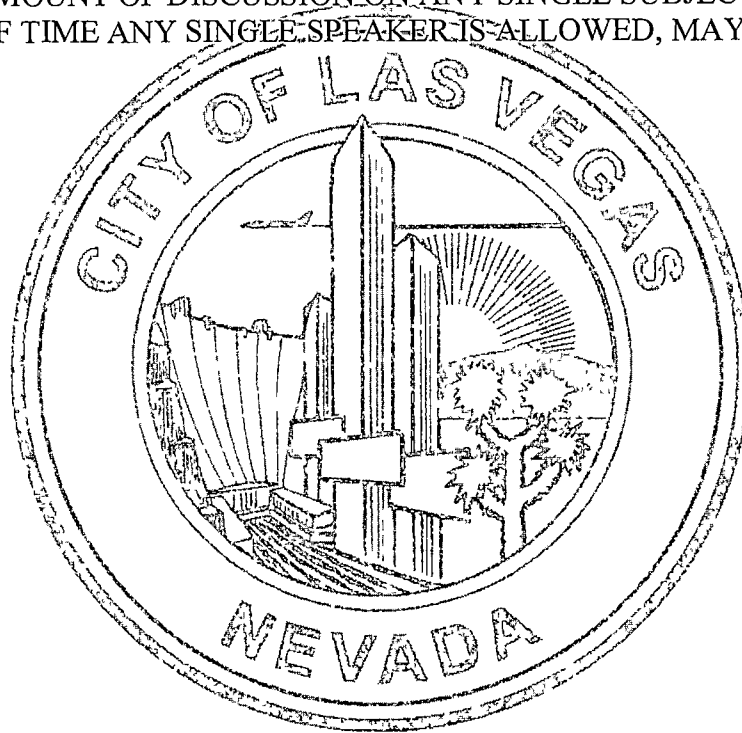
AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: JUNE 15, 2010

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:
None.



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DEPARTMENT: CITY CLERK

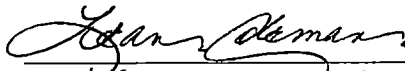
DIRECTOR: BEVERLY K. BRIDGES

Consent Discussion

SUBJECT:
ADJOURNMENT

Minutes:
The meeting was adjourned at 9:04 a.m.

Respectfully submitted:


Luan Coleman, Deputy City Clerk
June 15, 2010

