

BUSINESS LICENSE COMMISSION MEETING

*Tuesday, April 2, 2002
City of West Hollywood*

I. CALL TO ORDER

Chair Sonnenburg called the meeting to order at 6:00 P.M.

A. **ROLL CALL:**
PRESENT:

Commissioners – Maxine Sonnenburg, Eric Thompson, James Kazakos, Terry Morgan, Alexander Ponder and Sibyl Zaden.

STAFF PRESENT:

Wade Davenport, Code Compliance Manager;
Bruce Robertson, Administrative Staff Assistant.

OTHERS PRESENT: Sgt. David Smith, LACSD

B. **THE PLEDGE OF ALLEGIANCE:** Commissioner Morgan led the pledge.

C. **APPROVAL OF AGENDA:**

Action: To approve the agenda.

Motion: Kazakos

Second: Zaden

Votes: All Ayes

Motion carried.

II. CONSENT CALENDAR

A. *Approval of Minutes for March 12, 2002.*

Action: To approve the Consent Calendar.

Motion: Morgan

Second: Zaden

Votes: All Ayes

Motion carried.

III. ITEMS FROM CITIZENS - None

III. PUBLIC HEARING - None

IV. COMMISSION CHAIR'S REPORT

Chair Sonnenburg reported that the High Impact Task Force met last month and asked staff to give a brief report on that meeting.

Wade Davenport reported that the final meeting of the High Impact Business Task Force was held wherein staff presented the Task Force with modifications to some existing and some proposed new definitions within the Zoning Ordinance. These new definitions included restaurants, bars, nightclubs, and the newly proposed category of *Supperclub*, a combination of a restaurant (until 10:00 p.m., then from 10:00 to 2:00 a.m., it would be considered a nightclub but without all of the entitlements of a nightclub) and a nightclub. There was also some discussion on how to apply these definitions to existing businesses within the City.

A subcommittee was created to continue looking at and developing the definition and criteria for the new *Supperclub* category. Once completed, these suggestions will be forwarded to the Planning Commission and then on to the City Council for their approval and adoption.

V. ITEMS FROM COMMISSIONERS - None

VI. ITEMS FROM STAFF

A. *Review of February 2002 Business License Activity Report.*

Staff presented the report to the Commission and offered to answer any questions commissioners might have.

The Commission had no questions of staff.

B. *Follow-up on Commission Inquiry Regarding the Disclosure of Citations Issued to Specific Businesses.*

Staff introduced the item by stating the per the City Attorney, there would be no legal reason to withhold this information from commissioners as this public information. However, in talking with the Director of Community Development, he felt that this information alone might prejudice commissioners about a particular business and would therefore not recommend including this information in the monthly reports distributed to the Commission. Mr. Davenport continued that should this information be desired by any of the commissioners (or members of the public) that it could be accessed by means of completing a Public Records Request, through the City Clerks office.

C. *Clarification of Prohibition of At-Large Appointed Officials Campaign Contributions.*

Mr. Davenport addressed the Commission on this matter stating that directly appointed officials should not donate to the campaign of the councilmember who appointed them, but that at-large appointees could contribute to the campaign of any councilmember they choose without violating any conflict of interest laws.

D. *Independent Site Visits by Commissioners to Agendized Businesses.*

In discussing the matter with the city attorney, staff was counseled that visiting businesses scheduled to appear before a commission would pose no legal conflict but that any visit of this nature would require that the commissioner make a public disclosure of his visit, prior to any public hearing. Staff continued that the city attorney has drafted bylaws, which once adopted by the City Council will be a guide for all city officials to follow.

Chair Sonnenburg asked if commissioners would be required to announce their presence to businesses they visit, and suggested that this matter be addressed in the Commissions' bylaws?

Staff answered that this would be a matter to be handled at the discretion of each commissioner.

VII. NEW BUSINESS - None

VIII. OLD BUSINESS

Delayed six-month review of conditions imposed by the Business License Commission upon the Argyle Hotel's Dance License, REG001058 and Entertainment License, REG001059.

Wade Davenport gave the staff report.

In his report Mr. Davenport reminded the Commission of the resolution which was adopted on September 5, 2000, by this body, restricting the Dance and Entertainment licenses of the Argyle Hotel, and limiting hours and activities on some outdoor decks and terraces.

Staff reported that at the 60-day review of the Hotel's operations, as mandated by the Commission, no violations had been reported. Since this review, staff has received three (3) complaints including:

1. Terrace doors permitted to be open, noise emanating from the Hotel.
2. Accepting deliveries after 1:00 p.m. on DeLongpre Ave., in violation of the Hotel's CUP.
3. Noise complaint.

Three citations have also been issued to the Hotel since this 60-day review:

1. May 1, 2001, employees parking in a residential area in violation of the Hotel's CUP.
2. May 2, 2001, employees parking in a residential area in violation of the Hotel's CUP.
3. June 9, 2001, noise violation.

The LACSD or LACFD has issued no citations since the 60-day review.

Based on the report Staff recommended that the Commission receive and file this report.

Public Testimony

- A. **Bill Watson, 8400 DeLongpre Ave.,** commented on the Argyle's violations on their CUP, noise ordinance, and business licenses.
- B. **Brian Chin, Afriat Consulting Group,** speaking in behalf of the Hotel commented that the Hotel's general manager has taken steps to mitigate noise concerns of the areas residents. The Hotel has recently posted signs in their loading dock area asking people to respect their neighbors. The Hotel is also working with a sound engineer to close gaps in the glass panels surrounding the pool deck in an effort to eliminate noise from this area. Sound curtains have been ordered by the Hotel which will be placed near doors exiting the Hotel to the rear, security guards have been hired to work weekend nights and off duty sheriffs deputies will be hired to work on nights when events are held at the Hotel.
- C. **Duane Dauphine, 8400 DeLongpre Ave.,** stated that there has always been a noise problem coming from the Argyle and opposes all outdoor events because he believes that noise cannot be mitigated with glass panels.
- D. **Robert Martinez, 8400 DeLongpre Ave.,** expressed concern that when calling the Hotel to complain about noise he has been told that there was no manager on-site, to speak with, at that time.
- E. **Teri Gustafson, 8400 DeLongpre Ave.,** commented that the Fenix is not a quiet, elegant restaurant as promised by the Hotel but is a loud disco on Friday and Saturday nights. Steve Rosen, the Fenix bar manager adjusted the sound level of the music on December 28th, but the level was raised later in the evening. Hotel management has told Ms. Gustafson that they have no control over the sound levels set by DJ's and when levels are set by Code Compliance Officers or the Sheriffs these levels are adjusted once the officers depart. Ms. Gustafson asked the Commission to once again restrict the operations of the Hotel and provided 17 pages of personal notes for each commissioner to read.
- F. **Katherine Thulin, 8400 DeLongpre Ave.,** commented that over the years Mr. Chang has proven that he is not a responsible hotel owner. She also commented on a party held by the Hotel even after being told by the City that he could not have the said party. Ms. Chung, the Hotel's GM stated

she had no control over sound levels after receiving neighbor complaints about the noise.

Commission Discussion

Commissioner Zaden proposed that after hearing public testimony, she would be in favor of agendaizing a public hearing on this matter.

Commissioner Morgan agreed with Commissioner Zaden and suggested that a public hearing be scheduled.

Commissioner Thompson asked staff for clarification regarding what issues concerning the Hotel fall under the jurisdiction of the Business License Commission.

Staff responded that although the Business License Commission does not have the ability to modify conditions of a CUP, it might review citations that have been issued to a business and take public testimony, in the forum of a public hearing. The BLC could impose additional conditions on the business' regulatory licenses but cautioned the Commission that, the staff report included all of the violations that have been confirmed to date and suggested that these violations would not be sufficient to justify modification of the Hotel's licenses.

Chair Sonnenburg pointed out the discrepancy in the number of violations being reported by neighbors and the number reported by staff and asked staff to clarify the correct procedure for reporting violations, to the neighbors.

Mr. Davenport replied that complaints are being reported without problem but that the City's noise standard is extremely high (that being if noise can be heard at all), and suggested that it would be impractical and outside the intention of the noise ordinance to expect any business to abide by this high standard 100% of the time. Mr. Davenport continued that although the City receives any number of complaints, that does not constitute that violations exist.

Commissioner Sonnenburg asked Sgt. David Smith of the LACSD how many calls to service were received by the Sheriff's Dept., over the past year.

Sgt. Smith deferred to Staff to comment on this matter.

Mr. Davenport responded that staff had requested this information for the time period of March 21, 2001 – March 21, 2002. He continued that the report contains all calls to service for the Argyle Hotel regardless of the reason and concluded that the report, which is six (6) pages in length, does not reflect a substantial number of calls during a one year period.

Sgt. Smith, LACSD, informed the Commission that he has been working with the neighbors for only three (3) months. He confessed that he has sat outside the 8400 building on DeLongpre Avenue but has not been able to hear any noise coming from the Hotel yet he has also been on residents' balconies when he has been able to hear noise. Sgt. Smith suggested that there might be some strange noise corridor that runs directly from the Hotel to the White House (8400 DeLongpre). He also stated that while on DeLongpre he has heard noise coming from the Sunset Strip.

Commissioner Kazakos asked if any other buildings or residents in the area are also complaining about noise from the Argyle.

Sgt. Smith responded that the residents of 8400 DeLongpre have been the only complainants of the Argyle.

Commissioner Sonnenburg asked Staff to give the Commission three (3) options that they might consider?

Staff responded with the following:

1. Adopt Staff's recommendation
2. Direct Staff to hold a public hearing on this matter.
Staff again cautioned the Commission in summarizing the calls to service for the Argyle's location stating that during a one year period there were 28 calls to service, only six (6) of which were noise complaints, none of which warranted citations by the responding officers.
3. Direct Staff to meet and work with the Hotel in an effort to find resolution to the neighbors' complaints.

Sonnenburg asked if it was within the Commission's purview to direct Staff to meet with the neighbors and hotel and to report back to the Commission so that the Commission could determine if, in their opinion, resolution has been achieved or if a public hearing should be scheduled?

Mr. Davenport responded yes.

Commissioner Thompson commented that he does not feel that this situation warrants a public hearing and also stated that the information presented by Staff and the neighbors appears to be quite different with regard to the number of complaints made/received.

Commissioner Ponder expressed an urgency to the needs of the neighbors and related his concern that both parties in this matter be treated fairly.

Mr. Davenport informed the Commission that in the process of finding a solution to this dilemma, if three (3) citations are issued for violations that this matter

could be forwarded to the City Prosecutor. Mr. Davenport continued that if while working with the Hotel, it is able to demonstrate that it can operate during peak times and comply with all of the City's ordinances this would be one way to demonstrate the Hotel's compliance with its current operating conditions.

Commissioner Zaden asked if a report could be supplied to the Commission regarding any activity that occurs between now and June as well as sheriff's dispatch records, and asked if it would be appropriate for commissioners to attend any meeting that is held by staff between the Hotel and the neighbors.

Action: To direct staff to hold a neighborhood meeting with residents and the Argyle Hotel and to report back to the Commission on this matter no later than June, 2002.

Motion: Sonnenburg

Second: Thompson

Kazakos asked how long the current management has been with the Hotel, and what has been the nature of the complaints received?

Staff responded that to the best of their knowledge current management has been at the Hotel for about 18 months. Numerous noise complaints were received as nightclub activity existed and the Hotel held any number of special events, employees parking in residential area, as well as deliveries being received at times not permitted etc., were also some of the complaints that were filed.

Votes: All Ayes

Motion carried.

XI. ADJOURNMENT

Action: To adjourn to the next regularly scheduled meeting of the Business License Commission to be held on Tuesday, May 7, 2002, from 6:00 p.m. until completion at West Hollywood Park Auditorium, 647 North San Vicente Boulevard, West Hollywood.

Motion: Kazakos

Second: Morgan

Votes: All Ayes

Motion carried.

PASSED, APPROVED AND ADOPTED THIS DAY OF _____.

CHAIRPERSON: _____

ATTEST:
BUSINESS LICENSE OFFICER: _____