

Martha Alvarez

From: R M <knowledgethebestmedicine@gmail.com>
Sent: Tuesday, September 3, 2019 9:10 AM
To: List - City Council; City Manager
Subject: 19-0361 Direct the Planning Commission to Consider Revisions to Use Permit Requirements for Short-Term Rentals in Commercial Zones (Interim Community Development Director Gibson)

I am opposed to any revision or loosening of the STR ban even if in Commercial zones.

Ronald Milner

Martha Alvarez

From: Julie Profet <julieprofet@gmail.com>
Sent: Tuesday, September 3, 2019 8:54 AM
To: List - City Council; City Manager
Subject: City Council Agenda #16

Dear Council members,

Council members, Hersman and Montgomery's request may provide an opening to the California Coastal Commission to take over our local control and affect our short-term-rentals ban in residential neighborhoods. Ensure the ban stays under our local control and vote no.

Furthermore, for such a hot-button issue, I think this item should not have been placed on the agenda the day after a long holiday weekend when many residents are out of town.

Please vote no on agenda item 16.

Thank you,

Julie Profet

Martha Alvarez

From: Gary McAulay
Sent: Tuesday, September 3, 2019 3:10 AM
To: List - City Council
Subject: 19-0029 Donations Policy and Programs

Hello Council

I am writing regarding the proposed donation policies, a subject which you may know has been of interest to me since the earliest days of the Strand Bench program. That program began with the community's expressed desire to *not* line the Strand with memorial benches, and the development of an art bench program with strict donation plaque guidelines. It did not go well.

So to tonight's draft proposal:

Strand Benches

I strongly support the Parks and Rec Commission recommendation to eliminate this donation program. The Strand is now almost completely lined with private memorials and cenotaphs, with only a couple of exceptions. There are only seven benches left upon which one might sit that simply do not need a plaque dedicated to somebody's lost loved one. Please follow the commission's recommendation and leave the benches unmarked.

Park Amenities

I am not in favor of the rather maudlin practice of putting "in memory of" style plaques, however worded, on everything. I am also not in favor of selling every public space and every public amenity for private monuments. Really, does every picnic pad, water fountain, tree, bench, and trash can need a sign on it? It's just tacky. At the very least, because you will of course approve this money-making program, the signage should, *this time really*, be limited to a simple "Donated by the Smiths" or "Gift of the John Doe family." As soon as you add "For Jimmy" or "Celebrating the Life of Our Mother," it becomes a private memorial to proclaim a loss. Memorials on public land and public facilities should be reserved for truly public community figures.

The Mosaic Mural and Paver Programs

I can support these community projects that are site-focused and open to all (*vs* the \$10K buy-yours-on-the-Strand benches).

Military Banner Program

This program should be about the City of Manhattan Beach honoring those currently serving in the military, but instead it is the City selling banners for a 3rd party company (that has found a great niche) to folks willing to pay for the privilege of having a banner on MBB.

Those on duty in the military serve us all, and they should all be honored. Actually, the City already has a monument to ALL veterans (and there have been hundreds) at 15th and Valley.

My research found some 24 Manhattan Beach soldiers, sailors, airmen, and marines that gave their lives in military service to our country, starting in 1918, and although they perhaps are also honored by the monument on Valley (they are actually war dead, as opposed to veterans) they really deserve something more, I think.

But the military banners? They should be reserved for active duty personnel (as many cities do) and the City of MB should honor them all, rather than just those whose families are willing to purchase the banners for sale.

There are people in Manhattan Beach, past and present, that have contributed above and beyond to our community, and who deserve recognition and remembrance, but I don't think we need to cover the town in donor plaques for a few dollars.

Respectfully,
Gary D. McAulay

Martha Alvarez

From: Edward Gajdicar <edward.gajdicar@yahoo.com>
Sent: Tuesday, September 3, 2019 12:02 AM
To: City Manager; List - City Council
Subject: 19-0361 Consider Request by Mayor Hersman and Mayor Pro Tem Montgomery to Direct the Planning Commission to Consider Revisions to Use Permit Requirements for Short-Term Rentals in Commercial Zones

I am opposed to any revision or loosening of the STR ban even if any in Commercial zones.

Ed G

Martha Alvarez

From: vicky.purvis@yahoo.com
Sent: Tuesday, September 3, 2019 12:01 AM
To: List - City Council; City Manager
Subject: 19-0361 Direct the Planning Commission to Consider Revisions to Use Permit Requirements for Short-Term Rentals in Commercial Zones (Interim Community Development Director Gibson)

I am opposed to any revision or loosening of the STR ban even if any in Commercial zones.

Why is this coming up again? Did not we just have this discussion a few months ago.

Vicky P

Martha Alvarez

From: Lyn Fisher <fisher6188@aol.com>
Sent: Monday, September 2, 2019 10:33 PM
To: List - City Council; City Manager
Subject: Re Council Meeting Agenda Item #16

I am so disappointed to find out that this is an agenda item:

Consider Request by Mayor Hersman and Mayor Pro Tem Montgomery to
Consider Revisions to Short Term Rental Ban

I thought all of you were committed to a ban on short-term rentals. And, Nancy, that was one of your campaign promises. So, so disappointing!

This ban should not be weakened as it will open the door for the Coastal Commission to invoke jurisdiction on our general plan. Do not let this happen!

Lyn Fisher
473 28th St.

Martha Alvarez

From: Phillips Lee <leephillipsmd@yahoo.com>
Sent: Sunday, September 1, 2019 1:03 AM
To: City Manager; List - City Council
Subject: City Council Agenda item; Consider Adoption of a Resolution 19-0348

First and foremost, I would like to Thank Lt Knickerbocker, MBPD and George Gabriel for all the work they perform. They all do a great job.

I write this e-mail as a resident of MB, and am expressing my opinion not that of any city task force or private group

I spend 20-40 hours a week reviewing legislation and local ordinances, speaking with resident groups and police, attending meetings, monitoring the impact of other cities actions on the movement of homeless to Beach Cities.

Offering more services is not the answer to moving homeless off the streets. Offering services does the opposite; it attracts homeless, enables the homeless to become comfortable on the streets and prolongs homelessness.

There should be a City Council person who dedicates his/her 4 year tenure to focusing on the homeless issue. There must be a comprehensive plan with City Leadership at the table, this is one of the most pressing issues facing cities today.

The Grant is good but:

LASHA is not effective and LA County will not solve the problem.

- <https://www.latimes.com/california/story/2019-08-27/homeless-audit-lahsa-outreach-performance>
- https://laist.com/2019/08/28/la-controller-outreach-lahsa-audit.php?fbclid=IwAR2kw2phjRB3yPrYOJiArxv5XXMeSHOC_K0kXrBkWUMWo_FE1ski5dSFwgk

It does not address residents' concerns.

- Homeless sleeping in Parks, Beach, Pier, under Sepulveda etc.
- Residents are concerned about mental and public health issues in the homeless

The city needs a day to day plan that makes sense to residents:

- An example might be a security officer who walks the strand, downtown, parks and green belt, Sepulveda underpass, Pier every day/night. Reports any homeless sleeping/camping/trespassing to MBPD. This security person can also have other duties.

- The number one priority of the city should be finding and funding shelter beds.

The city needs to have at the ready an emergency plan to address any encampment that forms within city limits. That plan must include a shelter bed.

The city must maintain a single accountable knowledgeable city official available to answer concern/questions from the community.

Lee Phillips



BREAKING NEWS



California boat fire rescue suspended after no signs of further survivors. 20 bodies found, 14 still missing

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Scathing new audit finds deep operational failures at L.A.'s top homeless outreach agency



Volunteers with the Los Angeles Homeless Services Authority conduct the annual point-in-time count of homeless people in January. (Dania Maxwell / Los Angeles Times)

By DOUG SMITH
SENIOR WRITER

AUG. 28, 2019
4:05 PM

The homeless outreach agency that was meant to move hundreds of people from the streets into housing, shelters or treatment for mental illness and substance abuse has failed dramatically to meet the goals of its contract with the city of Los Angeles, according to an audit released Wednesday by Controller Ron Galperin.

The audit found that, despite having more than doubled its staff of outreach workers in the last two years, the Los Angeles Homeless Services Authority missed seven of nine goals during the 2017-18 fiscal year and five of eight last fiscal year.

"The goals that were set by the city are not unreasonable," Galperin told The Times. "Quite frankly, they are [setting a] pretty low bar to begin with. If you can't meet the low bar, that's a problem."

Outreach workers were supposed to place into permanent housing 10% of the homeless people they assessed. But in the fiscal year that ended in June, they placed only 4%, the audit reported. The goal was 20% for placing people in shelters, but they achieved only 14%.

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The discrepancies were greater for referrals to treatment: 6% for substance abuse and 4% for mental health. Both had goals of 25%.

At a news conference Wednesday, Galperin called those results "shocking."

The authority's "outreach is fundamentally limited because it is reactive instead of being proactive," he said. "Much of the outreach has been consumed with responding to calls about homeless encampments throughout the city of Los Angeles."

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Aug. 15, 2019

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LAHSA, as the authority is commonly known, issued an equally biting response that was distributed in writing at the news conference.

Peter Lynn, the authority's executive director, called the audit misleading, saying it studied only measures that are ill-suited to determining the effectiveness of homeless outreach and looked at only the fraction of LAHSA's system that is covered by the city contract.

"It ultimately says nothing about LAHSA's outreach efforts, which contacted record numbers of our homeless neighbors in the year it studied," he said in the statement.

Heidi Marston, the authority's chief program officer, gave a more measured reaction. Marston said federal privacy rules prevented LAHSA from accurately reporting mental health and substance abuse referrals. As a result, she said, the agency no longer uses those goals.

"The report did a good job of pointing out where some of the gaps were," she said after the news conference, "and we agree that proactive outreach is the way to go as opposed to reactive outreach."

The main problem with the system, she said, is that it is unbalanced — heavy on engagement with homeless people, but short on shelters and housing.

"We have 30,000 people who have said to us: 'Yes, we want resources. Yes, we want shelter.' But yet we don't have anything to offer them," Marston said.

While attributing some of the shortfalls to the underlying shortage of affordable housing and treatment resources in the city, the audit criticized the city for setting fuzzy goals that weren't linked to the scale of the homelessness crisis and knocked the authority for not being able to meet them.

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In its 2019 count, LAHSA reported that there were close to 60,000 homeless people living in the county, with more than 36,000 of them in the city. All but about 25% live on the streets.

Galperin said the audit, which began last year, took months to complete "partly because getting accurate and consistent numbers from LAHSA has been a challenge."

The authority, according to the audit, "lacks a rigorous performance review process for its outreach activities. Moreover, data-driven decisions about the deployment of resources are not made because the information is neither timely nor accurate."

LAHSA provided the controller's office with four different versions of its outreach numbers, each one significantly different, Galperin said. A chart in the audit showed the percentage of homeless people placed into shelters dropping from 64% in the first version to 19% in the last.

The authority attributed those changes to the loss of some records during a transition to a new data system.

The audit also faulted a report by the authority that it placed 21,000 people into permanent housing last year. Not only did the number include placements made by other agencies, such as the U.S. Department of Veterans Affairs, it included duplicates by

counting individuals or families that fell in and out of homelessness during the year, the audit said.

CALIFORNIA

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The report also faulted LAHSA's participation in cleanups of homeless encampments by the city's Bureau of Sanitation for contributing to its failings with outreach. The authority estimated that cleanups accounted for 67% of its outreach time in the city.

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"In many cases, they are required to talk with people that are already working with homeless service providers," the report said. The city should "rethink its outreach policies and more sufficiently find a balance between a proactive outreach strategy and an effective response to 'hot-spot' encampments."

The audit sharply criticized the goals set by the city in its contract with LAHSA.

The goal that 25% of homeless people with a substance abuse disorder would be connected to appropriate treatment "supplies no indication about what the 25% target represents," it said. "Even if LAHSA had met its 25% target, only 167 ... would have received substance abuse treatment," it said.

In a written response, Lynn said those numbers reflected a flaw in the audit. "Metrics around mental health and substance use are not appropriate ... when evaluating outreach," the statement said.

Marston added that outreach is “about how well we interact with them. It’s about the quality of the interaction.”

Galperin said the city and authority should recast goals that are understandable and specify the number of people expected to receive assistance, rather than using a percentage. LAHSA also should adopt a data-driven outreach system modeled after the CompSTAT policing model used by police departments across the country, including the LAPD.

Marston said the authority is already doing that at the city’s Unified Homeless Response Center, and that it has set better goals for data collection and reporting.

With the infusion of sales tax dollars from Measure H, the city-county outreach system has grown from fewer than 300 workers to nearly 800. They include teams employed by the homeless authority and its contractors, and teams fielded by the Los Angeles County departments of Health Services and Mental Health.

The city contributed \$3.5 million from its general fund in the 2017-18 fiscal year to LAHSA and \$6.8 million last year, the audit said. County contributions increased from \$13 million to \$31 million.

Finally, in light of the city’s chronic shortage of shelters, the report urged both the city and county to do more to provide short-term resources, such as restrooms, showers, storage facilities and waste services to ameliorate living conditions on the street.

“There are things we can do immediately,” Galperin said. “You look at when civil emergencies happen around the world. This is what we have on our streets right now. Unfortunately, the city is not treating it quite as the emergency it is.”

It’s unclear whether any changes to the way LAHSA operates will be made as a result of the audit. Changes to its contract with the city are likely, but there were no concrete

proposals for how the authority's burden of staffing encampment cleanups could be reduced.

Mayor Eric Garcetti, through a spokesman, issued a statement saying that he would review the audit.

"If we're going to solve this crisis, we need ideas and input from all our leaders, and we should always be willing to put our strategies under a microscope," Garcetti spokesman Alex Comisar said.

County Supervisor Janice Hahn said in a statement that the audit highlighted concerns she has had about outreach across the county.

"We need to stop justifying our current approaches and figure out what strategies will actually get the job done," she said.

But Supervisor Sheila Kuehl defended LAHSA, saying in a statement that the audit did not provide "a full and fair analysis" because it focused on a single city contract.

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Los Angeles Times senior writer Doug Smith scouts Los Angeles for the ragged edges where public policy meets real people, combining data analysis and gumshoe reporting to tell L.A. stories through his 45 years of experience covering the city.

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LA's Current Homeless Outreach Strategy Is Misguided, Says City Controller

by [Matt Tinoco](#) in [News](#) on August 28, 2019 5:15 PM



San Pedro Street in Skid Row, Los Angeles. (Matt Tinoco/LAist)

The L.A. City Controller's office released an audit Wednesday that questions the effectiveness homeless outreach programs by the Los Angeles Homeless Services Authority (LAHSA) in the City of Los Angeles. The audit says the current strategy is misguided, and has an underwhelming track record when it comes to moving people from the street into permanent housing.

Not everybody agrees, though. L.A. County Supervisor Shelia Kuehl dismissed the report as a "partial and incomplete picture" since it focuses on a single contract between LAHSA and the City of Los Angeles. That contract, according to LAHSA's Chief Program Officer Heidi Marston, represents about 6% of all homeless outreach performed in L.A. County.

Nevertheless, the City Controller's conclusions are still sobering, and offer a window into the enormous challenges and barriers facing the quest to house Los Angeles' homeless.

Consider the City-LAHSA contract-set goal of moving 10% of people who received case assessments by LAHSA outreach workers into permanent housing 2017-18 fiscal year. The controller's audit found just 4% of those assessed were placed into permanent housing.

Where the contract outlines a goal of moving 20% of people who received case assessments into temporary shelters or "bridge housing," the actual achievement rate was 15%.

NO PLACES TO PUT PEOPLE

LAHSA doesn't build shelters or housing. It's reliant on third parties, like the City of Los Angeles, to make such living arrangements available.

BEST OF LAIST

[How To Intentionally \(And Safely\) Walk To Dodger Stadium And Save Your Money For Overpriced Beer](#)

[Protesters Killed A Plan For A Koreatown Homeless Shelter, But That's Just The Beginning Of The Story](#)

[LA County Has 12 Tiki Bars, And This Summer, We Want To Try Them All](#)

[This Village Of Black Artists Has Been A Semi-Secret Creative Haven For 50 Years](#)

[Traffic Data Now Supports Our Suspicions. There Are Best And Worst Days To Drive On LA Freeways](#)

"One of the major problems is that you need a place to send people," said L.A. City Controller Ron Galperin. "Even if people are willing to accept help, if you don't have [any place] to send them, then that is a huge shortcoming on the part of the city."

[Insufficient Housing and Services \(p. 35\)](#)

BARRIERS TO SUCCESSFUL OUTCOMES

Alternatively, through proactive outreach, LAHSA would have much more autonomy to strategically "hot-spot" encampments based on size, location, or multiple reported incidents. The agency could focus on people with a more expeditious path to available housing, people with high acuity health concerns, people in imminent danger, and high utilizers of emergency rooms.

Insufficient Housing and Services

LAHSA and other service providers continue to express that there is a shortage of housing options and resources. Listed are key observations about housing and services that affect people experiencing homelessness.

- **Total population experiencing homelessness exceeds the supply of shelter and permanent housing beds.**

In 2018, LAHSA's housing inventory count (HIC) report noted that there were about 15,600 shelter beds. Comparatively, there were about 42,500 unsheltered people experiencing homelessness for a point-in-time in 2019.

About 80% of shelter beds in the CoC were occupied by a person or family experiencing homelessness during the 2018 point-in-time count as noted in the following table.

Figure 8: 2018 Shelter Bed Inventory in the CoC²³

Facility Type	Individuals Occupying Beds	Bed Count	Occupancy Rate
Emergency Shelter	8,819	11,088	80%
Transitional Housing	3,522	4,393	80%
Safe Havens	44	98	44%
Total	12,385	15,579	80%

HUD's definition of shelter beds includes beds in emergency shelters, transitional housing, and safe havens. All three facility types are similar because they provide temporary shelter, but transitional housing and safe havens add supportive services.

As the table indicates, shelter beds are in short supply compared to the capacity needed to temporarily house the estimated 42,500 unsheltered people counted in a

²³ 2019 totals were not available at the time of this review.



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The job of case and outreach workers for homeless people includes signing them up for government services that subsidize their rent in a public or private housing unit. These services typically target a limited subgroup of the overall homeless population, like veterans or families with children, with the most resources. At the same time, there's very little help available for the so-called "single-adult" group, which makes up the vast majority of the homeless population.

BE PROACTIVE, NOT REACTIVE

Galperin's audit pointed out that 67% of the outreach happening under this particular contract is related to L.A. City's encampment cleanup process. The report found that the outreach workers who accompany city clean-up teams can often duplicate the work of outreach workers who work for other homeless service organizations.

That these particular outreach workers accompany the police and sanitation bureau-led clean-up teams may also help explain the middling results, particularly given the [longstanding civil rights complaints about how the city cleans up homeless encampments](#).

"When the garbage truck is arriving is not necessarily the best moment to do outreach," said Galperin. "it's also very traumatic to the people being asked to leave at that moment. If you really want to capture folks at a moment when you can have a real conversation and a real difference, that may not be the best time."

Galperin prescribed the City and LAHSA work together to ensure they conduct what he called "proactive outreach" instead of "reactive outreach."

The outreach performed under this particular contract is reactive, in the sense that it's mostly for people who live in encampments that the City of Los Angeles wants to clean up. Those clean-ups, or "sweeps," as they're often called, are typically arranged in response to complaints from the public submitted through the City's 311 system.

[Proactive Versus Reactive Outreach \(p. 34\)](#)

IV. Barriers to Successful Outcomes



While the City's contract with LAHSA contains specific outreach goals and targets, some argue that the only true measure of success is the aspirational goal to end homelessness. Others suggest that success happens one handshake and one outreach interaction at a time. What is true, is that with the influx of funding for homelessness services, the public expects greater results from the agencies tasked with outreach or the provision of services.

The following section provides the factors that could have affected LAHSA's performance and discusses:

- Reactive Outreach
- LAHSA's lack of roots in communities where outreach is performed
- Insufficient housing and services
- Varied experiences that might prevent people from being housed

This information is based on our analysis and information conveyed to the Controller's Office by LAHSA administrators, County representatives, DHS' contracted outreach workers, researchers, and community-based organizations (CBOs), but most importantly, the people that are or have experienced homelessness.

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By contrast, proactive outreach means consistently targeting a few homeless people at a time for services. Although the City does not specifically refer to the services it requests from LAHSA as reactive, they are in nature and focus. Reactive outreach is driven by:

- encampment cleanups initiated by constituent requests or planned by the City through the Bureau of Sanitation
- referrals for services from elected offices
- requests from the Los Angeles Police Department (e.g., disturbance calls related to homeless individuals with mental illness)

SO NOW WHAT

RON GALPERIN

30

At a press conference Wednesday, Galperin was clear that the status quo is effectively a failure. He outlined a view that outreach workers should help people with basic sanitary needs while building trust, instead of following around city garbage trucks tasked with cleaning up encampments.

"How do we create more safe parking sites? How do we create, even, safe tenting areas?" he asked. "[There are] a whole variety of different options that are very imperfect, but would be better than the current state of affairs."

What questions do you have about housing or homelessness in Southern California?

0/240

Your contact info

We'll be in touch if we look into your question.

Name	Email address	Zip code
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HOMELESSNESS , LAHSA , RON GALPERIN

What do you think?

4 Responses

-

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Martha Alvarez

From: dmcphersonla@gmail.com
Sent: Friday, August 30, 2019 11:03 AM
To: Hildy Stern; Nancy Hersman; Richard Montgomery; Steve Napolitano; Suzanne Hadley; List - City Council
Cc: Bruce Moe; Liza Tamura; Beverly Palmer
Subject: 900 Club Resolution No. 19-0075 Invalid, September 3 Agenda Item 10
Attachments: 190729-Palmer-CC-ReviewPublicHearing.pdf

Mayor Nancy Hersman
Manhattan Beach City Council
City of Manhattan Beach

Via Email: CityCouncil@citymb.info

Subject: 900 Club Resolution No. 19-0075 Invalid, September 3 Agenda Item 10

Mayor Hersman and Councilmembers,

This letter shall serve as notice that the proposed 900 Club Resolution 19-0075 has no validity, for reasons established in the attached letter by attorney Beverly Palmer, dated 29 July 2019:

- 1) In the 2 July 2019 continued public hearing, the city council does not have jurisdiction over modification of the use permit. That properly belongs initially to the planning commission. The council may consider the matter in a public hearing, only if the planning commission decision appealed;
- 2) Section 9 in Resolution 19-0075 retains city-council jurisdiction over considering in six months, a proposed closing-hour extension. In a use permit, the city council may not overrule the municipal code provision that the planning commission must initially hear proposed modifications to use permits; and,
- 3) The continued July 2 public hearing invalid, because the city did not notify me at the address of our Bayview Ave property, listed as '1014 1st St' on the Los Angeles County property tax bill. Per the transcript of the August 6 hearing, Councilmember Stern inquired about the notification radius. Staffer Ochoa answered, "*The applicant provided that list so refer that to him.*" The city may not cede their responsibility to applicants, for public-hearing notification to owners of property within the 500-foot radius of the application premises.

Thanks for considering my request to deny Resolution No. 19-0075,

Don McPherson
1014 1st St, Manhattan Beach CA 90266
Cell: 310 487 0383
dmcphersonla@gmail.com

From: dmcphersonla@gmail.com <dmcphersonla@gmail.com>
Sent: Monday, 5 August, 2019 17:48
To: 'Hildy Stern' <hstern@citymb.info>; 'Nancy Hersman' <nhersman@citymb.info>; 'Richard Montgomery' <rmontgomery@citymb.info>; 'Steve Napolitano' <snapolitano@citymb.info>; 'Suzanne Hadley' <shadley@citymb.info>; CityCouncil@citymb.info
Cc: 'Bruce Moe' <bmoeb@citymb.info>; 'Liza Tamura' <LTamura@citymb.info>
Subject: 900 Club Aug 6 Records Withheld from the Public

Mayor Nancy Hersman
Manhattan Beach City Council
City of Manhattan Beach

Via Email: CityCouncil@citymb.info

Mayor Hersman and Councilmembers,

On Monday July 29, attorney Beverly Palmer filed with the city council her opinions, regarding the 900 Club continued public-hearing, August 6. On Thursday August 1, I filed my opinions regarding the subject hearing. As of this email on August 5, per the agenda report, the city has improperly withheld our submittals from the public.

The city has no justification to withhold this information from the public, regardless of the case, *Donald McPherson and Coastal Defender v. City of Manhattan Beach*.

Thanks for your consideration of my issues,

Don McPherson
1014 1st St, Manhattan Beach CA 90266
Cell: 310 487 0383
dmcphersonla@gmail.com

Distribution: 900 Club neighbors, Strumwasser & Woocher, Media

From: dmcphersonla@gmail.com <dmcphersonla@gmail.com>

Sent: Thursday, 1 August, 2019 07:37

To: Hildy Stern <hsstern@citymb.info>; Nancy Hersman <nhersman@citymb.info>; Richard Montgomery <rmontgomery@citymb.info>; Steve Napolitano <snapolitano@citymb.info>; Suzanne Hadley <shadley@citymb.info>; CityCouncil@citymb.info

Cc: Bruce Moe <bmoe@citymb.info>; Liza Tamura <LTamura@citymb.info>

Subject: Unresolved Issues, 900 Club August 6 Public Hearing

Mayor Nancy Hersman
Manhattan Beach City Council
City of Manhattan Beach

Via Personal Delivery and Email: CityCouncil@citymb.info

Mayor Hersman and Councilmembers,

This letter raises issues regarding the continued 900 Club public-hearing on August 6, for reviewing compliance with the nightclub's use-permit modification, Resolution No. 18-0075. The attachment summarizes my issues.

Apologies for missing the July 2 hearing. The city mailed our notice to a vacant rental unit, rather than to the address on the Los Angeles County tax rolls. This violated Manhattan Beach Municipal Code ["MBMC"] §10.84.040(B)(1).

At the July 2 hearing, after public comment, the council did not discuss the agenda item. As result, no information exists regarding councilmember opinions whether the 900 Club complies with its use permit. For whatever the council decides at the August 6 hearing, councilmembers must address the following issues:

- Per municipal code, the city council may not consider the 900 Club request for increased hours;
- At the July 2 hearing, staff presented reasonable grounds for revoking or modifying the use permit;
- The public-hearing record does not disclose the Superior Court case of *Donald McPherson and Coastal Defender v. City of Manhattan Beach*, which challenges Resolution No. 18-0075;
- 900 Club operates with unapproved structural modifications to fire- and life-safety exits; and,
- Invoices totaling \$25,939 filed with the city by Mr. David Caskey, for 900 Club attorney fees.

Attorney Beverly Palmer has expressed her opinions regarding the July 2 hearing, in a separate letter to the city council, dated July 29.

Regrettably, neither Ms. Palmer nor I can attend your August 6 hearing, because of long-standing commitments at that time to our respective families.

Thanks for your consideration of my issues,

Don McPherson

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July 29, 2019

Manhattan Beach City Council
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: August 6, 2019 900 Club Agenda Item

To the Honorable City Council of the City of Manhattan Beach:

We write on behalf of Don McPherson and Coastal Defender regarding the City Council's review of the 900 Club and the 900 Club's request for additional hours and the revocation of certain conditions imposed just one year ago in City Council Resolution 18-0075. The 900 Club's request for any additional privileges should by no means be granted at this time. The City Council should instead initiate proceedings to revoke the 900 Club's permit entirely. The record before the City reveals that this business consistently refuses to adhere to the requirements placed upon it by the City and is a continuing source of disturbance for the neighborhood.

To begin with, the procedure that the Council has followed to consider the requested additional hours and permit modification is improper in several respects. First, the City Council is not the proper body to consider permit modification. Manhattan Beach Municipal Code chapter 10.84 regarding use permits makes clear that the Planning Commission must review such permits in the first instance. The applicant's request for extended hours and relief from the conditions of the permit is also directed (properly) at the Planning Commission. If the City Council considers any changes to the permit it must proceed through the Planning Commission, as it has done in the past.

Second, notice was not properly provided of the City Council's July 2 action and has not been provided in the interim. Manhattan Beach Municipal Code section 10.84.040 requires notice to property owners within 500 feet of the premises at the address "shown on the last equalized property tax assessment role or the records of the County Assessor, Tax Collector, or the City's contractor for such records." The notice for the July 2 hearing was not provided to the address of record with the Los Angeles County tax assessor for Dr. McPherson, but was rather sent to Dr. McPherson at a location on Bayview which is *not* the mailing address for the property owner.

In addition to the improper procedure, the current request is deficient in several critical respects. It lacks plans as required by Manhattan Beach Municipal Code 10.84.030(A). Per the record, the City last approved plans for the property in 1997. Since then, changes have been made to the layout of the premises that must be reviewed to ensure compliance with building code and life/safety requirements. In apparent violation of state and city codes, however, it appears that for the 900 Club, the City approved Resolutions 14-0063 and 18-0075, without having accurate plans per Manhattan Beach Municipal Code 10.84.030(A).

Finally, as the Council is certainly aware, Resolution 18-0075 is the subject of pending litigation in the Los Angeles Superior Court, *McPherson v. City of Manhattan Beach* (BS174550). A critical issue in that litigation is whether the City was legally authorized to expand entitlements when it was acknowledged by the City that the business was not in compliance with legal requirements of the zoning code.

The identical issue would be presented if the Council acts to modify the permit on August 6. As Planning Director Jester testified on July 2:

“So, staff has been monitoring the club for compliance with the conditions during the past year. We've done a number of inspections, and we've been in contact with the police department and our code enforcement staff to evaluate where the club is in compliance with the conditions. There are several pages in your staff report that go into detail about each condition of approval of the 2018, as well as the 2014, conditions related to hours off... of operation, access, the windows being closed, their entertainment permits, um, floor plans, which then they could set the occupancy limit. Signage, noise mitigation to be installed on the site. Having a manager and employee handbook, a recording of a covenant. Having a licensed, bonded, certified security guard on site. The use of the back door and the storage and utility room. The, uh, amplified sound background music and noise. Their entertainment permit and their special events, uh, some additional noise mitigation measures that were to be installed within 45 days. Policing the surrounding area to make sure there's not any noise impacts, and other impacts to the surrounding area. And the access code and inspections for the fire and police department.

“So, if you look at your report, you'll see that, sort of in a nutshell, the applicant has not been in compliance with any of these conditions, or only in partial compliance with the conditions. . . .

“So, in conclusion, the applicant has not complied with the majority of the conditions in the 2018 or the 2014 resolution. The police department has responded to several complaints that are violations of the conditions related to noise, after-hours operation and such. And staff does have concerns about

super... sup... about future compliance... and modification of the current conditions. We would not recommend granting the applicant's request at this time due to the outstanding issues. If those issues are resolved, we think it's something the... the council could consider in the future.”

Not only does this finding plainly disqualify the 900 Club from receiving additional privileges or being relieved of existing requirements, it instead compels the conclusion that the City Council should initiate proceedings to *revoke* the permit. Staff reports that six complaints were received by the Manhattan Beach police department regarding excessive noise at the premises. This is not reflective of a good operator who is adhering to existing requirements.

Because the evidence presented to the City Council indicates that the 900 Club is not complying with Resolution 18-0075, the Council should modify Resolution 18-0075 pursuant to Manhattan Beach Municipal Code 10.104.030, to eliminate the additional privileges afforded to the 900 Club in that action (increased closing time on Thursday and increased special events). The protective modifications in Resolution 18-0075 should remain in effect, of course, as long as the business continues to operate.

If the Council does decide to modify the conditions of Resolution 18-0075 by granting additional privileges and revoking requirements intended to protect the neighborhood, Dr. McPherson and Coastal Defender will be required to seek leave from the Court to file a Supplemental Petition to bring this additional illegal expansion of authority into the existing litigation.

Yours very truly,
STRUMWASSER & WOOCHEER LLP



Beverly Grossman Palmer

cc: *via email only*

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