

**CITY OF MANHATTAN BEACH  
[DRAFT] PLANNING COMMISSION  
MINUTES OF REGULAR MEETING  
SEPTEMBER 9, 2009**

The Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 9th day of September, 2009, at the hour of 6:35 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**A. ROLL CALL**

Present: Andreani, Fasola, Lesser, Paralusz, Chairperson Seville-Jones  
Absent: None  
Staff Present: Richard Thompson, Community Development Director  
Laurie Jester, Planning Manager  
Recording Secretary: Sarah Boeschen

**B. APPROVAL OF MINUTES – July 22, 2009**

Commissioner Paralusz requested that page 5, line 1 of the July 22 minutes be revised to read: “She ~~said that she would~~ also ~~suggest~~ suggested that entertainment productions that are advertised be limited to those that are filmed on site.”

Commissioner Paralusz requested that the second paragraph on page 16 be corrected to read: “Commissioner Paralusz said that she ~~feels~~ needs more information regarding additional mitigation measures before she can make a decision regarding extending the hours.”

Chairperson Seville-Jones requested that the spelling of “Gary Osterhaut” be corrected to “Gary Osterhout” in paragraph 7 on page 3 of the minutes.

A motion was MADE and SECONDED (Lesser/Fasola) to **APPROVE** the minutes of July 22, 2009, as amended.

AYES: Andreani, Fasola, Lesser, Paralusz, and Chairperson Seville-Jones  
NOES: None.  
ABSENT: None.  
ABSTAIN: None.

**C. AUDIENCE PARTICIPATION**

None.

Chairperson Seville-Jones congratulated Commissioner Paralusz on the birth of her daughter, Isabella.

**D. PUBIC HEARINGS**

**09/09/09-2 Consideration of Code Amendments to Allow All Restaurants, Bars, Hotels, Facilities Within Hotels, and Similar Commercial Businesses to Remain Open Until 1:00 a.m. on New Years and Allow Extended Hours on the Sundays Before Memorial Day and Labor Day.**

Planning Manager Jester summarized the staff report. She pointed out that the City Council previously adopted an amendment to extend hours of operation on New Years Eve for bars, restaurants and hotels to their Saturday hours if New Years Eve falls mid-week. She indicated that the Commissioners also have been provided with an e-mail from Gary Osterhout with concerns regarding the proposed Code Amendment for the Sundays before Memorial and Labor Days. She indicated that the City Council directed staff in April to look into the request of the Downtown Business Association to extend hours of businesses on holidays. She commented that staff provided the City Council with a presentation in July and August and has worked with the Police Department and City Attorney's office in arriving at a list of holidays to consider the possibility of extending the hours of operation. She indicated that the City Council narrowed down the list of holidays to New Years Eve, and they approved allowing weekend operating hours for businesses on New Years Eve if it falls on a weeknight. She indicated that the Council also directed staff and the Planning Commission to consider allowing hours for businesses until 1:00 a.m. on New Years Eve, as well as considering extended hours for the Sundays before Memorial Day and Labor Day.

Planning Manager Jester indicated that staff reviewed the hours of bars and restaurants in the City. She said that there are 84 restaurants, bars and hotels that serve alcohol within the City. She indicated that 66 are permitted to remain open until sometime between midnight and 2:00 a.m.; 29 are permitted to remain open until 2:00 a.m.; and 42 are allowed to remain open until 1:00 a.m. or later. She pointed out that the Kettle is permitted to remain open 24 hours but is not permitted to serve alcohol after 2:00 a.m. She stated that the majority of restaurants in the mall are permitted to remain open until 2:00 a.m. although most do not remain open to those hours. She said that although a Use Permit may allow a business to remain open until 2:00 a.m., it does not necessarily mean that it will operate until those hours. She indicated that the Commission should consider impacts to the surrounding residents with noise, parking, trash, and alcohol use. She said that a notice was placed in the Beach Reporter regarding the hearing, and notice was also sent to interested parties. She stated that only one public comment has been received from Gary Osterhout. She indicated that the Police Department would like to have consistency in enforcement on the hours for businesses.

Commissioner Andreani indicated that she would like further clarification regarding the types of businesses that would be included in the proposal. She indicated that the proposed amendment is intended to apply to all restaurants, bars, hotels, facilities within hotels, and similar commercial businesses. She said that she is not certain regarding the operations that would be considered as similar commercial businesses to restaurants, bars and hotels.

Planning Manager Jester said that Verandas is a facility for special events. She indicated that it is the only example of a similar type of use to a restaurant, bar or hotel that she is aware of that would be included.

Commissioner Andreani asked regarding the definition of closed, as she was unable to locate any such definition from the Code language. She said that the proposal is to allow restaurants and bars to remain open until 1:00 a.m.; however, people may linger at the business well after closing hours.

Planning Manager Jester said that there is not a definition of "closed" in the Code language. She stated that staff would interpret it to mean the hour at which alcohol and food service ends and additional patrons are not allowed inside the establishment. She pointed out that patrons typically do not remain at restaurants and bars much longer after food and alcohol service ends. She indicated that some Use Permits specifically require alcohol and food service to end 30 minutes prior to closing.

Commissioner Fasola said that approximately 42 businesses in the City would have the potential to remain open later hours with the proposal. He commented, however, that less than 12 of the businesses stay open until later hours.

Chairperson Seville-Jones commented that she is not certain she understands the concern of the Police Department in providing consistency in closing hours of businesses on holidays when her understanding is that the officers have access to the operating hours of all of the establishments in the City to help them with enforcement. She said that information regarding a history of businesses remaining open past their permitted hours on New Years Eve is missing from the staff report. She commented that she is not clear on the justification for the proposal. She indicated that she could possibly understand the need if there was an indication from the Police Department that there was a problem with enforcement of operating hours on New Years Eve in the past.

Chairperson Seville-Jones asked whether other cities allow businesses to remain open until 1:00 a.m. on New Years Eve.

Planning Manager Jester commented that she is not certain of the hours for businesses in adjacent cities. She indicated, however, that she is certain that many businesses in other cities stay open past midnight on New Years Eve.

In response to a question from Chairperson Seville-Jones, Planning Manager Jester indicated that New Years Eve is widely celebrated, and many businesses traditionally tend to remain open past midnight. She said that the intent of the proposal is to add language in the Code that officially allows businesses to remain open until 1:00 a.m.

Chairperson Seville-Jones opened the public hearing.

There being no one wishing to speak regarding the issue, Chairperson Seville-Jones closed the public hearing.

### **Discussion**

Commissioner Paralusz stated that she also is not certain as to whether there is a need for the proposed changes. She said that 42 businesses already have closing hours of 1:00 a.m., and there appears to be only about 12 businesses that the proposed changes would impact. She said that she has difficulty identifying the need for such a change. She indicated that she is also concerned with allowing businesses which are located near to residences to remain open until 1:00 a.m. on New Years Eve, as the extended hours would only increase any noise impacts. She commented that there is no evidence in the staff report that there is a compelling need to change the hours. She said that she does not support the proposal. She commented that she agrees with the comment in Gary Osterhout's e-mail that the burden for showing a compelling reason for making the proposed changes to the hours should be on the local businesses that would benefit. She said that while she feels there may be some justification for extended hours on New Years Eve, she cannot support the change for Labor Day and Memorial Day.

Commissioner Fasola commented that there are not a large number of business owners stating they wish to remain open the Sunday before Memorial Day and Labor Day. He said that he can understand the reasons for legitimizing extended operating hours for New Years Eve, but he does not support any extension on Memorial Day or Labor Day. He commented that he would support allowing extended hours on New Years Eve rather than having establishments remain open in violation of their Use Permits. He said that allowing extended hours may allow some businesses to have smaller events for New Years Eve rather than large drinking parties.

Commissioner Andreani pointed out that no members of the business community have come to the meeting in support of the proposal for extended hours on New Years Eve and the Sundays before Memorial Day and Labor Day. She stated that she does not see the request as a public or economic necessity. She indicated that she does not feel extending operating hours to celebrate New Years Eve, Memorial Day or Labor Day should be supported by the City. She commented, however, that she could support an amendment to allow a closing time of 1:00 a.m. for New Years Eve since it is generally recognized as a day where people are up until midnight to celebrate.

Commissioner Lesser commented that he is involved with the Chamber of Commerce and supports the business community. He indicated, however, that he cannot support the proposal for businesses to remain open on the Sundays before Memorial Day and Labor Day. He indicated that he does not feel the need for adopting additional hours has been demonstrated, and he does not see that it would serve the public interest. He said that he is not clear regarding what has previously been decided by the Council and regarding what the Commission is being asked to decide with this proposal. He commented that he does not see that the proposed change helps to fulfill the goals of the General Plan. He said that he also has a concern with Memorial Day and Labor Day being used as a basis for increasing drinking hours. He commented that he is not clear on the decision that has already been reached by the City Council and the proposal that is now before the Commission regarding New Years Eve. He indicated that it would be helpful to know whether businesses in neighboring cities are permitted to remain open past midnight or whether other jurisdictions are lax in enforcing the permitted operating hours on that night.

Chairperson Seville-Jones commented that she is adamantly against the extension of hours for New Years Eve. She said that allowing an extension of hours for businesses on New Years Eve is a solution without a problem. She indicated that there has been no information as to problems with enforcement of operating hours for New Years Eve in the past. She said that there has been no analysis as to whether extending the hours would result in other businesses taking advantage of being allowed to remain open until 1:00 a.m. to attract additional customers. She said that if there has been a problem with enforcement of operating hours on New Years Eve, she is not certain whether the best solution is to allow the extended hours Citywide rather than to provide for better enforcement. She stated that she is concerned with the City becoming a regional destination point on New Years Eve for people who live in other areas. She indicated that people also share information on the Internet, e-mail and twitter as to the best locations for parties. She pointed out that there are many restaurants that are currently permitted to remain open until 1:00 a.m., and she has not heard a concern that there is a shortage of businesses that are open late on New Years Eve. She commented that she understands that police officers have access to the permitted hours of operation for businesses within the City. She said that in order to maintain the family friendly atmosphere of the City, extending hours should not be supported. She indicated that the proposal would also disregard the consideration that is given to operating hours with each individual Conditional Use Permit. She commented that she would have no interest in allowing extended operating hours on the Sundays before Memorial Day and Labor Day.

Director Thompson said that he is in agreement with not allowing an extension of hours for the Sundays before Memorial Day and Labor Day; however, he does not have a concern with allowing an extension of hours for New Years Eve. He indicated that New Years Eve is traditionally a holiday where people stay out late and businesses remain open regardless of their permitted hours. He pointed out that enforcement of permitted operating hours is based on complaints. He said that a neighborhood that is very sensitive to a business may raise a complaint if a business is open later than their permitted hours, and the Police Department must

enforce the rules. He indicated that his recollection is that the only issue regarding complaints regarding a business operating beyond their permitted hours on New Years Eve has been with the Shade hotel.

Commissioner Fasola commented that smaller businesses that want the opportunity to be open on New Years Eve could possibly provide an alternative to parties at the largest bars.

Commissioner Andreani said that there is importance in the approval of each individual Use Permit, and all conditions are considered by the City Council including the hours of operation. She commented that New Years Eve is widely recognized as a night when businesses remain open until later hours. She commented that extended hours on New Years Eve for approximately 12 additional businesses would be contrary to the goal of the City in maintain its small town atmosphere. She suggested the possibility of requiring that businesses that are interested in remaining open after their approved hours on New Years Eve apply for a special permit.

Director Thompson said that staff can bring back additional information regarding the possibility of requiring a permit for a business to remain open on New Years Eve beyond their allowed operating hours. He indicated that staff will also provide additional information from the Police Department. He commented that he does not feel there is a concern with extended hours on New Years Eve resulting in the City becoming a destination point. He pointed out that the Ordinance can be changed if a problem is created, whereas a Use Permit is an entitlement that remains with the property.

Chairperson Seville-Jones pointed out that it can be difficult to rescind a right later that has previously been granted by an Ordinance.

Commissioner Fasola indicated that it is difficult for business operators to know at the beginning exactly how their business is going to grow and what exactly they may need. He said that he does want to provide some flexibility for businesses, and he does not feel allowing hours until 1:00 a.m. on New Years Eve is an excessive request. He indicated that he would support the request for extended hours on New Years Eve. He said that it would be much easier to rescind the Ordinance than it would be to change a Use Permit if there are complaints from residents. He suggested that staff provide a questionnaire to the 42 businesses that would be eligible to determine their interest in remaining open until 1:00 a.m. on New Years Eve. He pointed out that some restaurants may wish to stay open until 1:00 a.m. without having a large and noisy party.

Chairperson Seville-Jones commented that her concern is with the potential for 42 additional businesses to remain open until 1:00 a.m. on New Years Eve.

Commissioner Paralusz indicated that she agrees with Chairperson Seville-Jones that the proposal appears to be a solution in search of a problem. She said that she initially felt that allowing extended hours for businesses on New Years Eve should be considered on a case by case basis. She indicated, however, that she also acknowledges the comments of Director Thompson that a condition within the Ordinance can be rescinded easier than through a Use Permit. She stated that after listening to the comments of the other Commissioners and staff, she reluctantly would approve allowing hours on New Years Eve until 1:00 a.m.

Commissioner Lesser requested additional input from the Downtown Business Association regarding the need for extended hours on New Years Eve with the understanding that the Commission at this point is not inclined to grant the proposal for extending the hours on the Sundays before Memorial Day and Labor Day. He stated that he also would like to have more

information regarding regulations for operating hours on New Years Eve for businesses in other neighboring cities. He indicated that he also would like more information as to the number of businesses that would take advantage of hours being permitted until 1:00 a.m. on New Years Eve.

Commissioner Andreani commented that if the proposal is approved, there could be a noise issue in the Metlox development on New Years Eve with all of the businesses operating until 1:00 a.m. She suggested allowing the Saturday hours for businesses on New Years Eve as previously approved by the City Council.

Commissioner Paralusz also suggested that staff provide further information regarding the possibility of providing for administrative approval of operating hours until 1:00 a.m. for businesses on New Years Eve.

### **Action**

A motion was MADE/SECONDED (Lesser/Andreani) to **CONTINUE** the hearing regarding consideration of Code Amendments to Allow All Restaurants, Bars, Hotels, Facilities Within Hotels, and Similar Commercial Businesses to Remain Open Until 1:00 a.m. on New Years and Allow Extended Hours on the Sundays Before Memorial Day and Labor Day to October 14, 2009.

AYES: Andreani, Fasola, Lesser, Paralusz, Chairperson Seville-Jones  
NOES: None  
ABSTAIN: None

### **E. DIRECTORS ITEMS**

Director Thompson commented that the City Council's annual Work Plan meeting is scheduled for September 25, 2009. He said that staff has asked that the Commissioners provide comments to the City Council regarding any projects that they may wish for the Council to pursue in the next year. He requested that any suggestions be submitted to staff by September 16, 2009.

### **F. PLANNING COMMISSION ITEMS**

Regarding the Work Plan, the Commission had the following comments:

Chairperson Seville-Jones said that she would like for the City Council to consider providing additional trees for parking lots. She suggested that canopy cover with shade trees be provided in parking lots rather than only smaller plants and shrubs.

Commissioner Paralusz said that she would be interested in the possibility of providing more trees in parking lots as suggested by Chairperson Seville-Jones.

Commissioner Lesser suggested that consideration be given to revisiting the Mansionization Ordinance. He commented that he realizes that the City Council may wish to have more time before considering changes, particularly with the slowing down of the economy. He indicated that he has a concern with the stringent requirements for the application of open space that are placed on applicants with new construction. He said that he is curious as to whether the Council feels that there is sufficient experience at this time with application of the Mansionization Ordinance to consider the issue further.

Commissioner Fasola commented that he shares the concern of Commissioner Lesser that

requiring additional open space with new construction actually results in applicants being required to build more in certain cases in order to create the open space.

Commissioner Andreani also suggested that the Mansionization Ordinance be considered further by the Council, particularly regarding the open space requirements.

Commissioner Andreani suggested that the Council also review the issue of parking in the Tree Section, the Hill Section, and in the downtown area. She commented that she particularly dislikes seeing residents park their cars on the sidewalk on Manhattan Avenue and Highland Avenue rather than utilizing their garages for parking.

Commissioner Andreani suggested that consideration be given to establishing a unique zone for Raleigh Manhattan Beach Studios. She also suggested creating a separate business district for the Sepulveda Corridor. She commented that she would like for business districts to be designated as unique areas.

Commissioner Andreani suggested that the Council consider providing for greater enforcement of the City's laws and ordinances.

Commissioner Paralusz suggested that the Council revisit the Tree Ordinance to determine the effectiveness of the revisions that were made by the Commission and Council or if further revisions would be appropriate.

Commissioner Paralusz suggested that consideration be given by the Council to moving the municipal elections from March to November, which could result in a potential financial savings to the City.

Commissioner Paralusz requested further information regarding the status of the Rite Aid project on Sepulveda Boulevard, as the property currently is sitting undeveloped and is an eyesore.

Director Thompson commented that the Rite Aid project was stalled during the economic downturn, and there was concern whether the applicant would be able to move forward. He indicated that the applicant has decided to move forward with the project, and staff anticipates that building permits will be issued within the next few months.

Commissioner Lesser requested that the Council consider changing the Code requirements to make it easier to allow for installing solar panels. He commented that the contractor he hired to install solar panels on his home was very frustrated with the City's Code limitations on the amount of space on a roof that could be occupied by the panels.

Chairperson Seville-Jones suggested that the City Council give further consideration to the height limitations on the Sepulveda Corridor and whether the 30 foot limit that currently applies is appropriate. She pointed out that there have been several requests for height variances for projects along the Sepulveda Corridor.

Chairperson Seville-Jones also suggested that the Council consider an annual review of the Use Permits in the City and the complaints that have been received. She pointed out that Hermosa Beach does have an annual review of their Use Permits.

Chairperson Seville-Jones suggested that the Council consider the requirements for retail space in commercial structures such as medical office buildings.

Chairperson Seville-Jones commented that she has noticed an increasing number of large televisions placed on decks which are visible to adjacent residents and asked whether any complaints have been received by staff from neighbors regarding the use of televisions on outdoor decks.

Director Thompson indicated that no complaints have been received regarding the use of televisions in outdoor areas.

Commissioner Lesser suggested that the Council give further consideration to the Sepulveda Corridor Guidelines.

Director Thompson suggested that it would be helpful for the Commissioners to provide staff with an e-mail with their specific comments regarding suggestions for the City Council's work plan meeting as a follow-up to the Commission's discussion.

**G. TENTATIVE AGENDA**

**H. ADJOURNMENT**

The meeting was adjourned at 8:00 p.m. to Wednesday, September 23, 2009, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN  
Recording Secretary

ATTEST:

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RICHARD THOMPSON  
Community Development Director