

Planning Commission Minutes
Special Meeting
January 2, 2014
Martinez, CA

CALL TO ORDER

Chair Ford called the meeting to order at 7:04 p.m., with all members present except Commissioner Glover and Alternate James Blair.

ROLL CALL

PRESENT: Chair Rachael Ford, Vice Chair Sigrid Waggener, Commissioner Donna Allen, Commissioner Dwayne Glemser, Commissioner Jeffrey Keller, and Commissioner Paul Kelly.

EXCUSED: Commissioner, Kimberley Glover & Commissioner, James Blair.

ABSENT: None.

Staff present: Assistant City Attorney Veronica Nebb, Police Chief Gary Peterson, Senior Planner Corey Simon.

AGENDA CHANGES - None.

Assistant City Attorney Veronica Nebb informed the Commission of a change in the Brown Act effective January 1, 2014. She noted that the change requires that the Commission public report an action taken and the vote or abstention of each member on that action. She explained that this could be done either by roll call vote or by the chair announcing a recap of the motion and the vote of each member at the conclusion of the vote. Chair Ford stated that she thought that a roll call vote would be the best manner of compliance.

PUBLIC COMMENT

None

CONSENT

None

REGULAR ITEMS

1. *Regulations of Bars as Conditional Uses in C-Commercial Districts Public hearing to review proposed zoning text amendments to the Martinez Municipal Code that address the establishment of Bars as Conditionally Permitted Uses with the C - Commercial Zoning Districts (MMC 22.16.080.D). Proposed changes would establish a definition of "Bar" that would generally distinguish such a business - as opposed to a restaurant - as being where alcoholic beverages are sold for on-site consumption, with either no or limited food service; and adopt: a) additional standards and criteria for approval of Use Permits and b) establish requirements for business management, training of alcoholic beverage serving staff. The proposed ordinance would also repeal the existing interim urgency ordinance affecting Bars in the Downtown. The Planning Commission will make its recommendations to the City Council, which will consider the possible amendments at a future date to be announced.*

Applicant: City of Martinez (CS/GP)

Senior Planner Corey Simon presented the staff report. He outlined the existing zoning ordinance regulations relating to police service calls for bars that do not serve food. He explained the existing moratorium relating to bars and the request that staff consider substantive regulations differentiating between bars that serve food and those that do not.

Mr. Simon noted that the proposed regulations include a new definition of bar vs. restaurants and include additional use permit operational standards for stand-alone bars not serving food. He noted that existing regulations call for a use permit for bars and restaurants serving liquor but that the definitions currently in place have rendered the current regulations confusing and difficult to enforce. He also explained the need to take action on the permanent regulations before the expiration of the existing moratorium on March 8, 2014.

Commissioner Allen expressed concern that affected businesses should be notified. Assistant City Attorney Nebb explained that current businesses would not be subject to the new ordinance unless they wanted to expand or change their service.

Commissioner Allen stated her concerns with the proposed definition of bar being tied to ABC license types and confusion relating thereto. Commissioner Allen was also concerned with setting a specific number of hours of required food service at 6, noting that some restaurants are only open for dinner and may not have food service for 6 hours. She further discussed her concern with the requirements relating to distance from residential uses. She asked about the definitions of "Bona fide eating place", "undue concentration" and "appropriate distance", which Ms. Nebb discussed. Ms. Nebb discussed some of the Council's issues with the current regulations, which led to the temporary moratorium. She also reviewed provisions currently in effect that will continue to be applicable, as well as ambiguities that need to be resolved.

The Commission and staff discussed the proposed provisions in an effort to clarify further.

Chair Ford expressed concern with the need for the ordinance and the unintended consequences of regulation. She also expressed agreement with the concerns stated by Commissioner Allen. Police Chief Gary Peterson reviewed issues of concern for the Police Department.

Commissioner Keller inquired of staff whether the number of food service hours could be stated as a percentage of the operating hours rather than as a set number of 6. Staff responded that such a change could be made.

At the request of Chair Ford, Ms. Nebb read the definition of Bona fide public eating place from the California Business and Professions Code. In response to a question from Commissioner Allen, Ms. Nebb explained why staff did not try to summarize the definition instead referencing the California Business and Professions Code.

Chair Ford opened the public hearing.

ARASH PAKZAD, owner of Barrel Aged, noted that his establishment possesses a type 47 license and that such license has numerous requirements relating to the operation of the business,

including percentage of food sales. He spoke to his own experience and stated that he agreed that some regulation can be a good thing. He stated that smart business owners will come to the City to find out what the regulations are and whether the proposed business is supported. He expressed concern with regulations which permit the City to make decisions that are not clear. He expressed general support for regulation that requires bars to ask for permission to locate in the City.

ROY JEANS said that he does not think that the ordinance proposed is necessary. He expressed his opinion that the City wants more quality bars rather than over-the-top regulation.

ASHLEY AFFERINO stated general support for some regulation. She expressed concern that the ordinance not be vague or discouraging to business, and that it should be drafted to achieve the solutions the City is seeking. She noted her experiences in San Francisco and stated that an ordinance requiring the permission of the Police Chief could be a good thing.

PATTY HECTOR spoke representing the owners of the building where Ferry Street Station had previously been located. Ms. Hector stated that they are looking for a reputable tenant and that some regulation is not off the mark.

Seeing no further speakers, Chair Ford closed the public hearing.

Ms. Nebb responded to questions/comments from the public and from the Commission. She noted that the proposed ordinance could be modified to have the permits considered by the Zoning Administrator and that the Commission could recommend the elimination of the references to the ABC license types as such reference was not really necessary.

Commissioner Glemser asked if it is true that the applicants would only have to participate in training pursuant to the ordinance if such training were offered for free. Staff responded by explaining the training opportunities and indicated that yes, the ordinance does not require training unless it is provided at no cost.

Commissioner Glemser asked if the police charge for multiple police calls, similar to false alarms. Staff said that such charges are not incurred at this time.

Chair Ford expressed concern with legislating behavior and stated her concerns that the ordinance will not solve the problem. She also questioned whether the City will be able to enforce the ordinance.

Commissioner Allen said she was concerned with the definitions of bar, undue concentration, and appropriate distance.

Commissioner Kelly expressed concern with the license types and confusion with the requirements.

Chair Ford asked staff to outline the options before the Commission. Staff explained there were essentially three options - the Commission could make comments and pass those comments to the City Council, they could request specific revisions from staff and bring the ordinance back to

the Commission on January 7th, 8th, or 9th, or the Commission could give a recommendation to the Council on the ordinance as written.

The Commission briefly discussed the options, with the consensus that the Commission would state their requested changes for staff to bring back to the Commission on January 7th.

Vice Chair Waggener said she would like to see the percentage of hours open as suggested by Commissioner Keller, and she would also like to see the ABC permit types removed.

Commissioner Allen state she would like the ordinance to be amended to remove the requirement for a distance from residential and add a short definition of bona fide public eating place, while keeping the reference to the Business and Professions Code. She also asked that staff review subsection E.

Chair Ford stated she would like to see the permits go to the Zoning Administrator.

The Commission briefly discussed the requested changes, and there was general consensus among the Commission that the requested modifications be made by staff.

On motion by Commissioner Dwayne Glemser, seconded by Vice Chair Sigrid Waggener, continue the Public Hearing regarding Regulations of Bars as Conditional Uses in C-Commercial Districts to January 7, 2014 at 7:00 p.m. in the Council Chambers. Motion unanimously passed 6 - 0. Yes: Chair Rachael Ford, Vice Chair Sigrid Waggener Commissioner Donna Allen Commissioner Dwayne Glemser Commissioner Jeffrey Keller, Commissioner Paul Kelly.

COMMISSION ITEMS

None.

STAFF ITEMS

Senior Planner Corey Simon noted that the Commission's regular meeting of January 14th was scheduled to have two items for consideration on the agenda - outdoor cultivation of marijuana and some amendments to the Housing Element. He noted that several staff members could not be present on that date and asked the Commission whether it would be possible to meeting on January 21st instead. The Commission expressed general support for meeting on the 21st.

COMMUNICATIONS

None.

Chair Ford adjourned the meeting at 8:40 p.m.

Respectfully Submitted

Approved by the Planning Commission
Chairperson

Mary Hougey

Rachael Ford