



Staff Report

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**Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of January 24, 2017**

**PROGRESS REPORT ON CONDITIONAL USE PERMIT (CUP)
ENFORCEMENT AND UPDATE ON IMPLEMENTATION OF THE
“LATE NIGHT ACTION PLAN”
(Community Development Director Ken Robertson)**

Recommendation:

Continue to review implementation of the Late Night Action Plan, and direct staff to work with the newly created Council subcommittee/task force to refine the plan and develop additional strategies and actions. Several recommended enhancements are either pending or in progress, and listed at the end of the report.

Background:

The Late Night Action Plan was developed in 2012 and revised in 2013 to build on ongoing efforts to reduce adverse impacts associated with late-night alcohol serving establishments and to improve the overall atmosphere on Pier Plaza and Downtown. The last progress report was provided to Council in April 2014. Attached are the earlier reports for historic context.

This progress report and update are provided pursuant to the Strategic Plan Goal of a Commitment to a Safe Community and, “Late Night Action Plan: Update Reports,” is a 2016 action item, identified for an update in November 2016. “Code Enforcement” is identified as an “other priority” in the 2016 Policy Agenda. An important and related action item is “Crime Prevention through Environmental Design” - an initiative to improve the design, lighting, cleanliness and overall landscape of key areas - which has been proven elsewhere to be a significant contributor to shaping/correcting local behaviors. This will be explored further in future agenda items and budget discussions.

The Strategic Plan “other priority” of Code Enforcement will be the general topic for the March 22, 2017 study session. We anticipate this to be a broader code enforcement discussion related to policy, service priorities, and actions primarily related to the Strategic Plan Goal of “More Livable, Sustainable, Beach City” and identified action items such as short term vacation rentals, smoking, construction activities, encroachments, commercial use of the beach, etc.

Also, it is important to note the newly created subcommittee/task force the includes two councilmembers has already initiated meetings with the objective of evaluating and implementing additional strategies to improve the overall atmosphere and safety of Downtown with a focus on Pier Plaza

Staffing challenges within the Police Department due to retirements and temporary restricted duties

due to medical conditions and injuries has been addressed by temporarily adding uniformed security guards in the downtown area on weekends. The guards are instructed to maintain high visibility in the parking lots and structure and to maintain crowd control as needed when officers are involved in enforcement activities. The added uniformed presence has reduced some of the loitering and kept people from congregating in large groups behind some of the businesses.

This supplemental security presence is being evaluated to determine its value long term. The police department will include this issue as part of the budget discussion in coming months.

Analysis:

This analysis provides a code enforcement progress report specific to late night establishments, followed by an update on each action item identified in the Late Night Action Plan, and a list of enhancements that are pending or in progress

CODE ENFORCEMENT PROGRESS REPORT

In accordance with our Strategic Plan, City staff has formally established a CUP and late night enforcement team, which is a collaboration of the Police, Community Development, Fire, Public Works and City Manager Departments. This team meets regularly and has initiated enhanced, proactive code enforcement on weekends and nighttime throughout the week. Further, we have engaged and continue to meet with the local business community to advance these efforts through meetings with the Chamber of Commerce and the Hospitality Association.

The City has budgeted for one and a half additional code enforcement officers in the Community Development Department for a total of two and a half (currently the temporary full-time position is unfilled). The officers, in addition to providing needed support to cover a variety of Building and Safety and Zoning enforcement issues, have been working Tuesday through Sunday nights to focus on Conditional Use Permit (CUP) compliance within the premises of various establishments, as well as exterior code compliance issues such as washing mats or placing furniture outside. The Fire Department also recently hired a Fire Inspector/Code Enforcement Officer, with daytime hours which will support code enforcement efforts.

Police officers will continue their presence in the Downtown and environs, as well as conducting random checks of alcohol serving establishments which includes observing occupant loads within the establishments and contacting the Fire Department if needed. The City is also co-hosting a series of Responsible Beverage Service training classes with Behavioral Health Services, which have already been well attended by many of the Downtown on-sale servers and managers. The Police Chief reports that collaborative meetings are occurring regularly with good response from the businesses. Code Enforcement Officers also communicate directly with on-site management and their private security personnel to establish working relationships to keep all personnel educated and informed, with the goal of achieving compliance and preventing problems before they occur.

The Planning Commission is continuing the practice of six-month reviews of CUPs in accordance with the City's adopted policy for semi-annual reviews. While violations and incidents were reported in the last review, no businesses were found to have exceeded the criteria established in the policy. The Commission recently formed a subcommittee to evaluate the effectiveness of the reviews and to evaluate whether any further reforms or improvements can be made to achieve Council's goals. The next six-month review is scheduled for the February and March meetings.

LATE NIGHT ACTION PLAN UPDATE

The 23 actions items set forth in the Late Night Action Plan (established in 2013) are addressed below. The last update was provided in April 2014. Staff continues to strategically and proactively enforce codes and CUPs related to late night establishments. We also continue to work with the property owners, businesses and community members to foster a collective approach towards meeting Council goals.

1. Implement sound economic development efforts to strengthen the economy and reduce adverse late night activities. The City's Economic Development efforts have been reassigned to the Assistant to the City Manager, who administers several other Council priorities. That said, we continue to assess, plan and implement actions to improve city/business relations and support and strengthen the economic climate. Over the past year, such efforts have included (but are not limited to): enhancing the City's Economic Development web resources and digital marketing presence; improving customer service and business recruitment/retention efforts through the City's ombudsman; implementing the City's Homeless Strategy and Action Plan through various local partnerships; and supporting/facilitating key projects through improved collaboration between the City Manager's office and Community Development department. Should the Council have renewed interest in implementing some of the recommendations in the Downtown Core Revitalization Strategy, this will also advance some of these efforts.

2. Encourage mid-day and early-evening success. In 2014, staff worked closely with the Chamber of Commerce and local business owners to develop a marketing plan in order to encourage more daytime activities in the Downtown with mixed success. Additionally, a three-month-long Pilot Parking Program was implemented which featured free limited parking during peak daytime hours throughout downtown commercial zones. Since then, the City has offered extended free holiday parking programs to encourage and facilitate downtown patronage, has supported marketing efforts of these and similar promotional campaigns, and approved phases 1 and 2 of the City's comprehensive parking meter technology overhaul. The City's Downtown Core Revitalization Strategy also identifies strategies to create a downtown that is people and business friendly during the daytime and early evening, extending into the later evening. One outcome of this effort has been the establishment of the Wednesday Farmers Market on Pier Plaza.

3. Create a funding plan for sustained implementation of the Late Night Establishment plan. The City has added Code Enforcement staff and modified deployment of resources to more effectively implement this plan and the financial resources to support this effort and recommended enhancements will be included in budget discussions.

4. Development of a communication plan regarding late night activities in Hermosa Beach. A broad outreach effort occurred when this plan was first launched. More recently, in 2015 and 2016, Code Enforcement distributed information directly to all downtown businesses to update them on new regulations (regarding encroachments and managing lines) and as a general reminder on CUP requirements and other long-standing rules and regulations.

On November 16, 2016 the City Manager, Police Chief and Police Management met with the Hospitality Association to discuss recent events and how the businesses can work with the City to improve the Downtown atmosphere. The Police Chief and Hospitality Association discussed how to reduce crime through environmental design and enhanced enforcement. Staff is continuing to work with the Public Information Officer to improve communications and outreach.

A significant example of success with advance communication efforts was the collaborative effort to successfully manage the impacts associated with July 4th activity. Enhanced safety and security has continued over the July 4th holiday weekend for the last three years due to our partnerships and planning efforts with Downtown businesses. New initiatives such as the broader citywide smoking and plastic bag bans, , and managing encroachment and lines on the Plaza were also launched using this approach.

5. Encourage inter-establishment coordination. Staff has continued to meet periodically with the Hospitality Association to foster communication and trust and develop solutions to issues addressed in the Late Night Action Plan, which will ensure the continued success of local establishments and improve overall safety. The City is participating and assisting in the Behavioral Health Services Responsible Beverage Service (RBS) training workshops which are promoted by the Hospitality Association. These workshops focus on health and safety practices and the obligations and responsibilities of employees serving alcohol. In 2016, 3 RBS workshops were conducted. In January Hermosa Beach hosted an RBS workshop which had 107 attendees from various businesses. There are two more RBS workshops scheduled for 2017 and more will be added if needed.

6. Encourage programs to communicate taxi or ride home programs. Staff has worked with the Hospitality Association to help them with programs to disseminate information to their patrons. Given the rise of ridesharing services such as Uber and Lyft, the City will also be considering how to incorporate ridesharing options into such programs.

7. Active involvement by City executives. The City Manager and department heads are actively involved in organizing, deploying resources effectively, implementing and monitoring progress with regard to this Action Plan. The newly established Downtown subcommittee/task force has had initial meetings which directly involve the City Attorney and management staff. This group has begun evaluating strategies for improving the downtown atmosphere, with specific focus on potential improvements during evening and late night hours.

8. Increase engagement with landlords. A letter was mailed to both business and property owners, informing them of the enhanced enforcement efforts being implemented by the City. A list of the most common code violations was provided along with a reminder of their obligations under their CUP's. Property owners are now included in notifications or discussions with business owners when violations or problems occur.

9. Assess deployment of police resources to match call volumes. The Police Department deploys extra police officers in the Downtown area on Friday and Saturday nights, events and holidays when call volumes are at their peak. Due to staffing levels, these police officer positions are filled on an overtime basis. The deployment mirrors the large crowds and higher call volume in the Downtown area on weekends. As soon as staffing levels allow, a dedicated downtown foot beat detail will be assigned to provide a long term coordinated approach to resolving the problems associated with the Downtown area.

10. Evaluate shift scheduling and overtime policies. Staff continues to evaluate scheduling of shifts to match call volumes and peak time. Currently overtime is used strategically to supplement staffing to cover vacancies.

11. Evaluate use of Community Service Officers (CSOs) to assist with taxi, no smoking and lewdness violations in the Plaza. On Friday and Saturday nights, one CSO is scheduled to work until 2:30am and has primary responsibilities for taxi enforcement. Taxi enforcement includes monitoring the taxi only lines for bandit cab activity, Uber, Lyft and citizen taxi zone drop locations. The CSO also enforces parking violations, and confirms that the taxi starter is on duty as required, and that an adequate number of taxis are available to meet demand. During the 2016 calendar year 1,658 taxi zone related citations were issued. Those citations represent Uber, Lyft and citizen violations. Bandit taxi stings are conducted quarterly.

The CSO with taxi enforcement responsibilities may also issue citations for open containers, public urination and smoking violations. CSOs are scheduled to attend additional training in 2017 to enhance the enforcement of these types of violations. The Community Services Division will continue to work with Uber and Lyft to find safe and efficient methods to facilitate passenger drop off and pick up.

A community outreach campaign was initiated in the spring of 2016 aimed at educating the City's downtown businesses and general public about the existing smoking ban on Pier Plaza and key City-owned public spaces. In addition, Code Enforcement began aggressively enforcing the ban through warnings and citations. As a result, compliance with the smoking ban on the Plaza was increasing, with the vast majority of patrons obeying the ban and smoking in the identified legal areas. The smoking ban has now been substantially broadened, eliminating legal smoking zones and virtually all of the City's cigarette butt receptacles. As active enforcement is only one component to ensuring consistent and long-term compliance, the City is in the process of expanding smoking signage and refreshing educational materials across various mediums.

12. Maximize partnership opportunities with other law enforcement agencies and prosecutor. The Police Department has partnered with numerous agencies including Manhattan Beach and El Segundo Police Departments via an ABC grant targeting underage drinking including decoy operations, and conducting a DUI checkpoint. The City Prosecutor continues to take an aggressive position regarding the filing and conviction of misdemeanor violations.

13. Increase proactive policing in public areas and neighborhoods. The Police Department is continuing to refine its deployment and tracking systems to ensure problem areas are identified and targeted. In 2016 the Police Department implemented the Community Oriented Check program. The purpose of the program is to encourage officers to engage in non-enforcement conversations with residents and the business community. In 2016, officers of the Police Department contacted at least one resident or business on every block in over 95% of the city. The partnership we are continuing to foster with the residents and business community will allow us to continue to improve the overall safety in our Downtown public areas as well.

14. Enforcement activities: Continued, consistent, fair and timely CUP enforcement. Continued, consistent, fair and timely CUP enforcement is provided in the field by Code Enforcement, which we now have deployed almost every late night. As stated, an important component is continuity and adequacy of staff resources (currently there is a temporary shortage, so weeknights are not being covered). Staff is also proactively conducting staff enforcement team meetings to identify issues and solutions and ensure activity is coordinated.

The Council's adoption of the "Process for Review of On-Sale Alcoholic Beverage Conditional Use Permits" in 2011 (updated 2014) instituted a semi-annual review of CUPs and threshold-based system using an established set of criteria for identifying on-sale establishments that appear to be creating adverse impacts as a basis for possible Planning Commission review. The analysis of the data corresponding to the criteria is performed administratively by staff and includes a tally of all violations and also includes incidents that are indicative of poor management or lack of adequate security as determined by the Police Department. The policy provides a timely, equitable, and consistent and fact based system. As noted, the effectiveness of this process is being reviewed by a Planning Commission subcommittee for possible recommendations for reforms, expected this spring.

15. Conduct three to five bar checks every Friday and Saturday night. Police, CSO and Code Enforcement staff are conducting enforcement activities during early and late night hours. In 2016, the Police Department conducted 376 bar checks. Code Enforcement checks Downtown establishments and other outlying establishments several times per night on the weekends. Fire Department personnel occasionally drive through the downtown area after emergency response. If a problem is observed the Firefighters will stop and discuss security personnel about resolving problems or violations.

16. Schedule regular and frequent DUI checkpoints around perimeter of Hermosa Beach. The Police Department has partnered with the Manhattan Beach Police Department and other local agencies in conducting DUI checkpoints in our city. A checkpoint was conducted on April 30, 2016 at Artesia Blvd. just east of Pacific Coast Highway resulting in 11 DUI arrests, 1 warrant arrest and 8 misdemeanor citations. The most recent DUI checkpoint was conducted on January 14, 2017. Due to the large number of officers required to conduct a successful DUI checkpoint, we will continue to conduct them in conjunction with neighboring agencies.

17. Evaluate occupant load calculations, monitoring and enforcement. The Fire Marshal and the Building Official carefully review and approve occupant load plans, and check for compliance in the establishment before assigning the final occupant load. Occupant loads have now been issued for all on-sale establishments and signs are posted. Strict limitations on any intensification of assigned occupant loads for late night establishments have been codified as part of the code amendments relating to "Late-night alcohol beverage establishments", Section 17.40.080(B) of the Municipal Code.

Code Enforcement staff routinely checks for apparent overcrowding, as do the Police when doing bar checks. The Fire Department is notified if an establishment appears over-occupied and will be dispatched to evaluate and conduct a count out if necessary. The establishments have become well aware of the implications of an over-crowding citation, and have improved their internal management of occupants.

18. Evaluate and modify private security plans for establishments. The Police Department has requested and received security plans from the establishments. The plans vary widely in content, scope and detail and some simply do not exist. The Police Department will work in conjunction with the Fire Department and Code Enforcement to produce an outline of a proper security plan and request the establishments modify their current plans to meet those standards or produce conforming plans if they were previously nonexistent.

The Police Chief has met with the owners/managers of the restaurants/ bars and discussed their

security plans. The Chief emphasized the importance of each business contacting the Police Department when an incident occurs so we can assist and keep it from escalating.

19. Undertake a comprehensive review of Downtown CUP's (use, floor plan, hours, etc.). The Code Enforcement Officer has inspected the floor plans for all the Downtown establishments and compared them to the actual furniture set ups. The Code Enforcement Officer has copies of the CUPs and floor plans to check compliance with all aspects of the CUP, including checking the exterior for removal of furniture, washing mats outside, dumping liquids behind establishment, etc. With the addition of another Code Enforcement Officer the CSO will focus more attention related to parking and taxi enforcement and Code Enforcement Officers will focus more predominately on CUP issues.

20. Audit 50/50 and 65/35 food to alcohol ratio requirements of the Municipal Code and CUP's for restaurants. The City has modified the Municipal Code and no longer defines or requires restaurant to have a proportion of food sales. Therefore, we also discontinued audits of restaurants with on-sale general restaurants open after 12:00 midnight that are required to report ratios to the City quarterly.

Four establishments with specific requirements in their CUPs are still required to provide reporting. All on-sale restaurants are still required to keep records of their proportion of food to alcohol sales, which can then be used as part of the City's review of an establishment if adverse impacts or problems have resulted in a review of their CUP, as set forth in Sections 17.40.080(C) and 17.70.010 (H) of the Municipal Code.

21. Explore Concept of Districts. Staff will continue to explore various forms of Business Improvement Districts (BIDs).

Funds from BID assessments could be used to implement the Late Night Action Plan, security measures, or area maintenance if the stakeholders elect to include these strategies in the required BID management plan. A feasibility study would be required in order to assess which form would be successful.

22. Enforce or revise ordinance that requires downtown establishment doors and windows to be closed. Code Enforcement Officers diligently patrol to ensure that windows and doors are closed when amplified music is played in the Downtown establishments. Violations of either provision in the CUPs or City ordinances will result in citations.

23. Regulate establishments in connection with special events. City staff ensures that any special events scheduled obtain special event approval. The Police, Fire Community Development, Public Works and Community Resources Departments work closely together to provide the proper guidance for major special events held in the City. Also, Community Development now coordinates the review and issuance of "temporary minor special events" on private commercial properties to ensure compliance with Section 17.42.150 of the Municipal Code adopted in 2013.

PROPOSED ENHANCEMENTS

The following enhancements are pending or in progress or require further exploration including the budget impact:

1. Review and refinement of action items and consideration of additional strategies with Council subcommittee/task force, and periodic reporting to full Council.
2. Crime Prevention Through Environmental Design (CPTED) (to be explored further in budget discussions)
3. Lighting and cleanliness improvements are in progress and pending and will be coordinated with CPTED.
4. Additional cross training of various enforcement staff is in progress.
5. Training of Fire Inspector/Code Enforcement Officer for deployment during late night hours in progress.
6. Fire Department to increase patrols of downtown during late night hours.
7. Police Department to explore further operational/enforcement opportunities with multi-jurisdictional task forces
8. Coordination with rideshare companies is in progress; explore possible designated drop-off locations.
9. Explore expanding of CSO responsibilities (without reducing parking enforcement and other responsibilities).
10. Police Department bicycle patrols, training and deployment in progress.
11. Renovation of office area in Municipal Parking Structure to serve as a downtown sub-station is pending.
12. Explore linking parking strategies being studied for PLAN Hermosa and Downtown Revitalization with objectives of Late Night Action Plan.
13. Explore enhanced reporting and tracking methods with links to location.

Attachments:

1. Strategic Plan Goal 1 with Actions
2. 23-Point Late Night Action Plan prior reports 2014 and 2013

Respectfully Submitted by: Ken Robertson, Community Development Director

Concur: Sharon Papa, Police Chief

Concur: Nico De Anda-Scaia, Assistant to the City Manager

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: John Jalili, Interim City Manager