

**MINUTES
PLANNING COMMISSION REGULAR MEETING
SEPTEMBER 7, 2010**

1.0 CALL TO ORDER

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:04p.m. by Chairman Hamerly in the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present: Commissioners John Gamboa, Richard Haller, Milton Sparks, Michael Stoffel and Michael Willhite, Vice Chairman Trang Huynh and Chairman Randall Hamerly

Absent: None

Staff Present: John Jaquess, Community Development Director
Lawrence Mainez, City Planner
Shiri Klima, Attorney from the City Attorney's Office
Angie Aguilar, Planning Technician
A. Halloway, Deputy, Highland Police Department
L. Leichliter, Deputy, Highland Police Department
W. Freund, Deputy, Highland Police Department
J. Diaz, Deputy, Highland Police Department
Linda McKeough, Administrative Assistant III

2.0 COMMUNITY INPUT

There was none.

3.0 CONSENT CALENDAR

3.1 Minutes of May 18, 2010, Regular Meeting.

Minutes approved, as written.

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3.2 Minutes of June 15, 2010, Regular Meeting.

Minutes approved, as written.

A MOTION was made by Commissioner Gamboa and seconded by Vice Chairman Huynh to approve the Minutes of May 18, 2010, and June 15, 2010, as written.

Motion unanimously passed on a 7 – 0 vote.

4.0 **PUBLIC HEARINGS**

4.1 Revocation of Staff Review Permit (SRP-008-001) initially approved by the City's Planning Division on January 22, 2008, to operate a "Philanthropic Headquarter" use. The Property is located at 7709 Victoria Avenue (generally located at the southeast corner of Victoria Avenue and Cypress Street). APN: 1192-491-01. Representative and Applicant: Monica King

Chairman Hamerly introduced the item and called for Staff' presentation.

City Planner Mainez gave the presentation from the Staff Report and then explained at the closing of his presentation, at the City Attorney's request, it would be appropriate if the Commission wants to hear testimony from the Deputies that were present at that night or if they are familiar with this case. If not, he would conclude his presentation and open the floor for comments and questions.

Chairman Hamerly asked in that the Officers' testimony may add to Staff's presentation and appears that one of the Officer's information is not in the Staff Report.

Discussion ensued between the Commission and Staff regarding whether the Officers' testimony may add / clarify / elaborate on the materials in the Agenda Packet and to Staff's presentation and may answer any questions the Commission may have. It also appeared that one of the Officer's information may not in the Staff Report.

The Commission concurred to hear the Officers' testimony.

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Deputy J. Diaz, Highland Police Department, addressed the Commission. He explained he has never been at a Civil Deposition for this particular proceeding and then gave what transpired on July 23, 2010 with the two subjects gaining entrance for the party at 7709 Victoria Avenue. There were several calls regarding a lot of parties there, and have tried to document how many people are there and the number of vehicles on the lot, as well as parked on Cypress and Victoria trying to gain entrance into the area. We were told that they were only allowed a certain number of people gathering at the location and that in this instance, there were a lot more at this particular incident. We were responding there to two subjects that were shot while trying to gain entrance into the "Deuces" Club House and unable to confirm who the shooter(s) were, but were able to contact the victims who were transported to Saint Bernadine's Hospital, but they were unwilling to provide a statement or identify anybody that had shot them. There was a large blood trail approximately seventy-five feet (75') south of the location running across the front of the location all the way to the southeast corner of Cypress / Victoria. There were also several spent casings that were found in front of the "Deuces" front gate traveling northbound on Victoria up to Cypress where several other casings were found and also a stolen gun was located just north of about ten feet to fifteen feet (10' – 15') north of the driveway entrance of the "Deuces" Club and that was just from that one incident. He has been working the graveyard shift for about seven to eight (7 – 8) months and has had several contacts with Mr. Waters who is the President of the Club, but exactly sure of his name. but contacting him advising him that he is out of compliance with the Ordinances that have been issued by the City and it is difficult, if not impossible to get them to stop.

Discussion ensued between the Commission and Officer Diaz regarding most observances were from the perimeter of the property and not inside the Facility and that Officer Diaz has not been inside other than Civil issues that were not part of this proceeding or City Ordinances and most of the activity is out in the open foray area of the very large parking lot just south of the Building. In one of the documents in the Packet stated if there were more than forty-seven (47) people attending the Functions, the Applicant would be required to retain an Officer on-site which was required by the SEP and that there was no Officer retained / stationed on-site. With the Calls for Service, there is not another area / location in the City that has the volume of Calls for Service for that particular area. It's not just people calling about that particular location, it's people living in the surrounding area that they would call and say there are a lot of people, there is loud music, at different hours throughout the night, but they are not specifically identifying that location, but when we go there, it's obvious it's that location is where the problem is.

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Chairman Hamerly asked if the Commission had any further questions of Deputy Diaz or Staff. Hearing none, he asked if that concludes Staff's presentation and City Planner Mainez responded affirmatively, it concludes Staff's presentation.

Chairman Hamerly then opened the Public Hearing and asked if anyone in the audience wanted to speak on this Item.

Ms. Cristina A. of Highland, California, who is a resident, addressed the Commission. She stated that she has resided there for twenty-five (25) years and lives across the street from the Building. After they got their Permit (SRP-008-001) to be there, there have been calls after calls for Calls for Service for them having loud music, but then it started getting dangerous to be out there at that time of the night. She leaves for work at 4:00 a.m. and people are still out there at 4:00 a.m. still partying. In her opinion, it's not an Event, it's more like a nightclub and is a party scene that is not a place where they say that they are having fund raisers. She knows of car washes, fund raisers to raise money and help people. It seems that the only people that are allowed there are their Club or their friends. She does not see flyers being handed out to the residents. Most of her life it has been quiet there where it's safe and now, the residents not feeling safe anymore. It is pitch black outside and the cars are lined up there in front of her house and around the block and the shooting and it gets to a point. She has two (2) sons and she knows that any neighborhood can be that dangerous, but if we can stop it, let us be able to stop it because it is getting out of hand and we can't control it. There are a lot of residents that are not here, but she is speaking on behalf of all of them. We have it all clean and is neat and the thing is that every time they leave, there are beer cans, litter and everything is thrown all over and they have no respect for our neighborhood if they are going to be throwing parties or having any kind of functions there. They should be able to clean up after themselves and we have messes everywhere. Keep your area / neighborhood clean and they just come and throw everything all over the place and we have to go and pick up after them. We weren't there; we were not the ones partying until 3:00 a.m., 4:00 a.m. or 5:00 a.m. That is a place for them to have their fundraisers and group events for everyone to go to, but it's not for the residents or anyone of us there, it's just for them. Ms. A. then read the following into the record a letter from a "Concerned Citizen".

"Regarding the properties use at 7709 Victoria Avenue. I was informed that the property was to be used as a place for fund raising. I have not seen any kind of fund raising there yet. They have gatherings on Thursdays and Sundays which consists of drinking, loud arguing,

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motorcycles coming and going at all hours of the morning whose loud engines make it difficult to get any sleep. The most recent incident was a shooting that took place on the property where two people were shot and they denied it happened there. So now we worry about any kind of retaliation and innocent people getting hurt. Lately they have been doing car repairs too. Sincerely, Concerned Resident.”

Ms. A. then submitted the letter as evidence. She further explained how even last week leaving for work at 3:30 a.m. and they were out there and it's getting too much. She needs to know that it is safe and be able to walk outside and can't be looking over her shoulder because she sees a line of cars, loud music, people yelling, and motorcycles revving at 3:00 a.m. to 4:00 a.m.

City Planner Mainez indicated the Applicant's Representative is in the audience.

Mr. Charles Butler, from Rialto, who is a Member of the San Bernardino Deuces and a Representative for Monica King, 7709 Victoria Avenue, Highland, California, addressed the Commission. Mr. Butler submitted documents to the Commission for consideration and were entered into the record as evidence. The documents were five (5) pages and consisted of two (2) newspaper articles, Constitutional By Laws of San Bernardino Chapter “Deuces” Motorcycle Club and an Encroachment Permit (Adopt-A-Highway). He explained not at one time there were any instances or pinpointing on what they did wrong on the property and that the Club is a fund raising group and is a Non-Profit organization with a Tax ID Number. They did have a fund raiser at the location in which the Sheriffs did come and disrupted their toy giveaway and they did pass out flyers to the community and that a lot of people did show up and also gave away free food and had a jumper for the kids and were giving toys out to the children and the Police Officers came and disrupted the function and complied with what they asked. The “Deuces” does fundraisers and functions and is a motorcycle club and by riding motorcycles does not make them criminals. There were two (2) fundraisers on May 20, and 28 and estimated that they were over the occupancy load. He then explained the distributed documents to the Commission. With regards to the shooting, he believed that this Officer was there (Officer Diaz) and allowed him to go into the property and checked their driveway there were no bullets or no evidence on our property on our side of the gate as the Officer stated. It happened to the left of their front gate in front of the apartments to the left of them. Mr. Butler stated that he saw a little bit of what happened and from his understanding, those gentlemen were trying to get into their Facility, but because of their demeanor, and what they appeared to look like, we would not let them in. We do have our Regular Meetings and we do have our community functions, but we discretionize who we let in. If you look gang attired or gang affiliated, and

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those gentlemen look gang affiliated, and we did not let them in. Anything that happened after that, it was not on our property and he reiterated that he allowed the Police Officers to come onto our property and do their investigation without a problem at all and no evidence or nothing was found on our property, as far as what we had anything to do with the shooting and we had nothing to do with that at all. With regards to the weapons, alcohol and the shooting Mr. Butler stated there were no arrests made on any of these accounts that they were being accused of and didn't believe there were. If there were any arrests made, and we did some kind of wrong doing, he was sure the Officers of the law would uphold what we did wrong and they would arrest us for carrying illegal weapons or any violations that we may have and would be arrested. Mr. Butler said that he feels that they are being pinpointed because they are a Minority Motorcycle Club, and he has several evidences that they are giving back to the community. He did not dispute that what anybody says and that it might get a little loud sometimes because they are motorcycle riders and that the motorcycles do get loud. As far as what they are here for and what they stand for, he really feels bad if they are trying to tarnish their name like that. He further explained about the "Deuces" Club has Adopt-A-Highway at the 210 / 215 Freeway and are cleaning that portion every other week and not being paid to do that and how the Club gives back to the community and has the paperwork to prove that, as well. All of the allegations that are being brought up against them is really offensive to them and how they are doing things for the community that you are able to do to go out on your own personal time and see. He explained the Freeway's location and what is said on the Adopt-A-Highway Sign and if they were out there doing bad things, we would not be wasting our time to clean the Freeway. We are not what they are making us out to be. With regards to the occupancy load, he is working on that and explained every time that they make a step forward and have made all the changes they have asked us to make at first. Then they came back and said that we have to make more changes so we are in the process of making more changes and it seems like it is an uphill battle. At the same time, they have so much money that has been put into the Building and trying to do the right thing that it is really hard and that we are keep getting kicked down. He reiterated that he has several documents to prove of what they are and what they are here for and reiterated how the State of California has given them regulations and authorization to be a non-profit organization, how is one City going to take that from them and stated that he doesn't believe that is fair.

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Discussion ensued between the Commission, Mr. Butler and Staff regarding entering the documents into the record and are needed for the Club's support, there are no responses listed in the Staff Report from their Organization, the Club is supportive of the Pop Warner Program, and the Club does a lot of things that the Club is not recognized for, how they ride the motorcycles and that the motorcycles are loud and the Club is still a non-profit Organization and doing their part to give back to the community and riding motorcycles is not a crime is not one of the Commission's Findings, the Club is feeling that they are being "pushed" in this issue and Mr. Butler had reviewed the Staff Report.

Further discussion ensued between the Commission, Mr. Butler and Staff regarding the Findings and COAs of the Original SRP and not the one they want to expand the occupancy from 47 to 350, the health safety and welfare activities as opposed to the land use, how the Findings do not say anything about riding motorcycles and how they are using the property and does it pose any sort of a threat to the surrounding neighborhood. Is it consistent with the original awarding of the Occupancy Permit for a Philanthropic Organization to do fund raising activities with occupancy loads not to exceed forty-seven occupants and whether or not if the finite Findings are part of the activities in accordance with the original granting of the Permit and how the Commission's hands are tied on any other extraneous issues and how the Commission has to make Findings consistent with the Municipal Code and that Mr. Butler understands that.

Further discussion ensued between the Commission, Mr. Butler regarding what is the definition of a party and what they are doing are not having parties and that no charges were made against the Club, the 2008-2009 Annual Dinner / Dance was a permitted Special Event Permit activity and as far as anything after that, they have had no where near that magnitude of a function. There were no alcoholic beverages inside at the Special Event, but maybe someone got something out of their vehicle and when the Deputy(s) wanted to come inside, no arrests were made. If there was something in wrong doing, Mr. Butler he was pretty sure that an arrest would have been made. There had been a Special Event which exceeded the forty-seven (47) load occupancy which was a Club trip that happened about one (1) month ago and how the case was founded / closed.

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Commissioner Willhite asked Mr. Butler if the Club served alcoholic beverages, but have alcoholic beverages been consumed on the premises during their Events and Mr. Butler responded no, but he personally, it is his Building and he pays the rent and if he is there or whatever, he might have a beer there or whatever, but as for serving alcoholic beverages, no.

Commissioner Willhite said he understood that they don't serve alcoholic beverages, but does Mr. Butler allow people to bring it in and drink it and Mr. Butler responded no, not to his knowledge. When he is there, no, and if he is there orchestrating something, no and Mr. Butler reiterated that he, personally, how he pays rent there and if he is there cleaning up, or whatever, he might have a beer on private property, but he doesn't believe that is against the law. Commissioner Willhite said he is talking about the Events and Mr. Butler said no, absolutely not and indicated that he is an Officer of the Club.

Discussion ensued between the Commission and Mr. Butler how there are at least two (2) items entered into the record attesting to disruptive noise in the early hours of the morning and other events that are causing disturbances in the neighborhood. Mr. Butler indicated as an outreach, that they have passed out flyers in the community, people that live behind us, and did the San Bernardino Salvation Army and all of the community surrounding us going on foot, and going door-to-door. In terms of telling the neighbors that the Club is going to have a gathering on a Saturday night and that it's the Club's Annual Banquet, and that they might get a little rambunctious, but if they are, have the neighbors come over and tell them to keep it down and the Club will do its best to keep it down. Mr. Butler responded in the beginning, they did, but they have not had any functions like that because of the situation at hand and have not had anything on the weekend just for that reason. Since the court injunction, there haven't been any major activities on-site other than just the Regular Club Meetings and Mr. Butler said right. In addition, the July 23, 2010, Event was also discussed and how Mr. Butler explained he is not profiling, but the gentlemen outside at the apartments were dressed with saggy pants, T-shirts, baseball caps and looked like they were going to cause problems how he had read in the paper that the Police confronted them and they said the "Deuces" had nothing to do it. Mr. Butler said he was standing at the gate when all this took place, and does not know who shot them, and had talked with the Sheriff's when it happened and he personally thought friends might have shot the men

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and that those individuals were friends and in that there were four to five (4-5) of them that were all together. The gunshots rang out in that group, and the same people that were doing the shooting, helped the person across the driveway back to the other side, in what the Police described, into a car and took him away. Those individuals were all together and Mr. Butler assumed that they were friends and that is what he explained to the Police Officers when they came to the gate, as well as they let the Police onto the property to investigate the area where it happened. When the Police came in, no one stopped them or got in their way and indicated that there is nothing in here. No one had a gunshot wound to the head and Mr. Butler read somewhere that he believed that someone got shot in the buttocks. He reiterated how the Police were allowed onto the property to do the investigation and no evidence was shown on the property that they had anything to do with that.

Further discussion ensued between the Commission and Mr. Butler regarding the feasibility of the use and number of security guards and the thirty – forty participants at the Thursday weekly Meeting, and the discrepancy of what is a party.

Mr. Robert Alvarez, of Highland, California, who is a resident, addressed the Commission through Ms. Christina Alvarez who was interpreting for Mr. Alvarez. He sleeps at 5:00 p.m. and when the party going on at 1:00 a.m., and stays up until 5:00 a.m. when his wife gets home, he is outside watering the grass and reiterated that he is waiting for his wife. He has witnessed people coming from Bingo that are already drunk and also has witnessed injecting in a jeep in front of their house and going into the party and has come back with other people and will go back inside the Building. Every Thursday, he witnesses the same thing over and over again and bottles everywhere and they have no respect for any of the property. There is a field in front of the house and right next to their property and have witnessed people standing there and urinate on the property and it doesn't bother them if everyone is looking. Mr. Alvarez has resided there for thirty (30) years and the loud music is overwhelming and their functions for Mr. Alvarez. If the music was lower and as a gathering and not as a loud party, he would be okay with that. They also need to pick up their trash. He then thanked the Commission.

Discussion ensued between the Commission and Mr. Alvarez and his interpreter that the last time there was a party was last Thursday and when asked if there were more than forty (40) people there, the whole corner and street were taken up much of the parking, as well as inside and there was a lot of loud noise.

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Mr. Butler responded to what Mr. Alvarez said how some people were parked on the side and were injecting themselves, and were drinking which happened outside which has nothing to do with what they have going on inside and that is his main point. They definitely don't do shooting of drugs, or anything like that there, and by Mr. Butler's representation, and that they are tax payers and citizens and work every day, are not racial and no illegal drugs and reiterated that that activity happened outside of the property.

Discussion ensued between the Commission and Mr. Butler regarding whether a Club activity can be disruptive, based on the volume and it has made apparent that they have to do better or get out. The documents and paper work from the State of California and that they (the Applicant / Mr. Butler) will make the necessary changes that needs to be done in order to obtain the property because they has placed so much money into that property. There are at least two (2) rounds (sets) of Conditions that the City asked them to do the Building regarding windows, having no barb wire, wrought iron fencing and reiterated the Club is a non-profit organization and is not there to make money and how and everyone in the Club works for a living. Mr. Butler wants to comply and now is working on the fourth round (set) of Conditions. The Commission explained the Conditions are based on consistency and the need to upgrade the property, have adequate parking and life safety issues and would be consistent findings that would be made for any type of application in the City. Mr. Butler explained there have been at least two (2) that were walk throughs (inspections) which have been completed and passed and now with a new Plan submittal to Building and Safety Division and hired an architect to draw up the Plans and complying up to the occupancy to 200 people and how they prepare for the next step, but then get knocked back down and explained how they had to pay money to their lawyer because of another lawsuit came about and now that case is closed and over, but had to pay the lawyer to take care of it so this has been an uphill battle and reiterated that is not what they are.

Chairman Hamerly stated that's what a Public Hearing is that it gives everybody a chance to get all of their comments out in the open for the record, so everybody can gather a full set of facts.

Discussion ensued between the Commission and Mr. Butler regarding the December 21, 2009, Event and how a Special Event Permit was not applied for. Mr. Butler explained they were new in the Building and thought that they could rent the Building out and that they had rented out the Building to a different venue (another group) for whatever function that they were going to have and that they had made and distributed flyers, Planning Staff had obtained a flyer and said that they could not do that and the Event was then canceled, even though it was the other group's venue.

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Further discussion ensued between the Commission and Mr. Butler regarding how the Building was initially a Feed Store and had a forty-seven (47) occupancy load with that land use for the Feed Store and is now attempting to do the proper changes to increase the occupancy load and how there are other types of Building Codes that would be used with the increased occupancy load with more than fifty (50) people i.e. proper exiting, fire sprinklers, ADA requirements, etc. Mr. Butler responded he is aware of that now and reiterated how there is an architect working with Building and Safety and added that there are eighteen (18) Chapters of the "Deuces" Club and that the Club has been in existence for over forty (40) years and this Chapter for ten (10) years and this is the Club's first location.

Chairman Hamerly asked if anyone else in the audience would like to speak on the Item. Hearing none, discussion then continued.

Discussion ensued between the Commission and Staff regarding if there were any other times when the Police were called to the Facility and other than the July 23, 2010, date listed in the Staff Report.

Deputy L. Lechlitter, Highland Police Department, addressed the Commission. He stated he was also unsure if there had been any further Calls for Service since July 23, 2010, and he is not on the swing shift anymore and is a former POP Officer and has been dealing with this since the beginning. He indicated that it's supposed to be a Church and there are not many Calls for Service at a Church for parties with anybody drinking or people being shot and compared to other Facilities, two (2) Calls for Service would be a lot. He could not think of a last time that they were at any one of the Churches in the City where there was a shooting whether it was related to the Church or next to the Church. It's not so much as to what they are doing in there, but the fact that every time they requested a Special Event Permit and the Permit was denied, but still had the Event which is the problem that they were dealing with from the beginning. The December 2009 Event even though they were advised they couldn't have it, people still showed up, Deputies showed up. With the first opening they had, they knew that they were not supposed to have, they (the Police) went there. They have been cooperative with the Police, but the problem is that when they are still denied, they would hold the Event anyway and then they deal with it after the fact has been their M.O. and that's what has brought this from day one to where we are at right now. With regards to alcohol, it has been on the Facility, whether it has been brought on or sold, that's neither here nor there to the Police, that is their property that they are renting out and it's not against the

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law to drink alcohol, so they would not arrest them for it, the only thing would be if they would be outside the Facility and drinking it in public. He didn't believe that they had caught them drinking outside and he never has and that he has been on several Calls for Service. With the rebuttal with what is going on inside is correct. The Event is the music, how many people are there and time of day that it is occurring. The complaints are from individuals who live around there and goes beyond the City's Noise Ordinance. The neighborhood is complaining and is Cypress / Victoria and had a hard time pinpointing exactly what Calls for Service were attributed to the exact address because of that situation. There have been many Calls for Service at that property and reiterated there are many Calls for Service for music, partying, and have sent Deputies out just to see how many people are at the Facility to document just for the City with what they violating what they had pulled their Permits for and further indicated he had not seen the Staff Report. He has not personally cited, and didn't believe that any Noise Ordinance Citations were issued and mostly were verbal warnings and reiterated mostly what they were dealing with, it was just mostly a documentation issue to see what was going on. It wasn't ever to Cite them or to take any money from them that he (Mr. Butler) talked about. Whether it's them or some other individuals, most of the Calls for Service turn out to be Music calls and are told to turn the music down or they would be cited. Once the music is turned down, then there is no Cite issue and that is throughout the City, not just them and that it is all of the residents because they all have to comply with the same Noise Ordinance that we have. Some of the Deputies live in the City and we have all had parties and no one wants to be given a Music Citation at 2:00 p.m. because the neighbor is upset, just turn the music down. He reiterated they (the Club) have always been cooperative and complied after the fact and that is the problem. Well, we're not going to get our Permits, we'll see what we can do and see whether they show up and then we'll shut it down and that is how it has been and has been documented and is probably in the Staff Report. With regards to the shooting, he believed the issue with the shooting was off the Facility. but was more of how the people were heading to that Facility to attend that function. Whether they got let in or not, they were advised of that function and knew that that function was going on and attempted to get there. The specifics of that shooting or the other one, he did not know and had not read any of those reports and that he was not working. All he knows that they showed up, whether they got in or not, then the issue occurred and then they (the Police) were called out. He reiterated if you got turned away from Immanuel Baptist or St. Adelaide's and then you have a shooting five (5) minutes later there and how he has been here for ten (10) years. He then explained the mechanism of the pressing charges process to the Commission.

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City Planner Mainez explained the Citation was issued to Mr. Charles Butler related to the May 20 - 21, 2009, Event, in that it was a Noise Citation issued from Officer Seimes (Spelling Please) and was fined \$100.

Mr. Butler responded how the Citation issued was for five (5) people on the premises and music was coming from motor vehicles and how four to five (4 – 5) Officers responded.

Chairman Hamerly asked if anyone else would like to speak on the item. Hearing none, he kept the Public Hearing opened and then opened the floor for discussion amongst the Commissioners.

Discussion ensued between Commission and Staff regarding the following: 1) the Special Event Permit (SEP) the Facility applied for and was denied and a complaint was made; 2) the SEP process and the Police restrict the on-site occupancy to forty-seven (47) people; 3) there are COAs to uphold to forty-seven (47) people, and; 4) Captain Phillips' Conditions were read regarding \$1,147 cost and time spent for one (1) Deputy for the SEP.

Discussion ensued between the Commission and Staff regarding the COA No. 12 and Staff's interpretation, the Club's weekly Meetings, differentiating between the SEP and activities of the Organization, and does the Applicant know about what to apply for an SEP. Staff explained that Ms. Monica King is not present and the Staff's communication has been with Ms. King and Staff does not want to misspeak on her behalf. Staff stated how the Club Meetings were fairly small, then she threw out a number of 100, then 300 for an Event. Staff's understanding is clear in that the Applicant in order to operate that Business in that Building, the Building Occupancy load is for forty-seven (47) people and is based on Building and Safety, Health and Safety Codes, and of the Building being a Type B Occupancy Designation.

Further discussion ensued between the Commission and Staff regarding when a Building does not meet the assembly use which is more than fifty (50) people, the City or Building and Safety has to limit the occupancy load of forty-seven with a Class B Occupancy Designation and the need to post signage above the doorway regarding no more than fifty (50) people and try to accommodate the Business Owner and when the Building was first leased, the occupancy load was then forty-seven (47). The acceptance of Conditions signed by Adriana Williams dated March 18, 2008, was also discussed.

(Note: Deputy A. Halloway left the Chambers at 7:11 p.m.)

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Discussion ensued between the Commission and Staff regarding the COAs to allow the Event would be costly on behalf of the Applicant, but were not restrictive on behalf of the City.

(Note: Deputy A. Halloway returned at 7:12 p.m.)

Further discussion ensued between the Commission and Staff regarding the City being business friendly, Staff's recommendation shows the Applicant has no intent of meeting the COAs and how the COAs make provisions for the Applicant, how the Site is large and a tent was erected which has to be approved with Building and Safety for the CUP and that there are some workable solutions in the original COAs for having larger Events, but not specifically says what type and an example was given that a person could also park a lot of motorcycles there and cram 300 into this Event.

Discussion ensued between the Commission, Mr. Butler and Staff regarding Mr. Butler is in the process with Staff to increase the occupancy load and Mr. Butler indicated Building and Safety Staff said the Building can hold 360 people, but Mr. Butler indicated that they are not trying to do that and that the number has been reduced of not more than 100 people and how an architect has been hired and has drawn up the Plans, but they have not been paid for yet because on how this will turn out and Chairman Hamerly stated that is a separate SEP.

Mr. Butler reiterated that 360 was too many and does not need that many and had "ran the numbers" in order to rent out the Building and draw up on what changes that need to be done to change the occupancy load to 100 i.e. fountains, fire extinguishers, and how Plans are drawn up and pay \$3,500/month and then asked every time there is an activity and wants to use the Building, he needs to come to the City to obtain a Permit.

Discussion ensued between the Commission, Mr. Butler and Staff regarding what activities would be generated for an Event and if the Club gets together as an example for a Ride and design flyers how an activity is planned, what happens if the music is turned up and the drinks come out and more people that attend, what is the definition between an event or an activity and the Commission trying to make a determination where the line is. There are two different topics here – occupancy load and COAs and that they are not the same thing. The use is more intense than a "Philanthropic Headquarter" and the planning process will require a Conditional Use Permit (CUP) and if approved, Building and Safety will have to require Permits, and that parking will also be Conditioned in a different planning process.

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Further discussion ensued between the Commission and Staff regarding whether a Motorcycle Club could go in and then design with the property with a modern site design with an occupancy load or a traditional site design and how to determine between the two. Staff responded how that has nothing to do with it and is tangent and would need to wait until an Application is submitted or used to the Club Members and how a CUP is discretionary on parking standards.

Discussion ensued between the Commission and Staff regarding clarification on the revoking process on the SPR, that it seems evident on the violations, misunderstandings / intent of Ms. King and Club Members, as well as the violations of the TOP and the revocation of the Permit use. Explanation of the additional review of the modern business was also discussed. Staff indicated that Staff understands the Commission's revocation and the cease / desist the operation and how the Applicant is unable to run the operations as current and give them an opportunity to vacate and that the Applicant could reapply.

Further discussion ensued between the Commission and Staff regarding the use under different Guidelines, possible scenarios and the feasibility of the Applicant returning to the Commission for consideration. Staff indicated if the Commission wants to approve the revocation, and if reapply at Staff level, they want hold a larger Event there on-site and wants more flexibility and subject to a CUP and a Public Hearing. The Commission indicated it concurred with that and in the interim, if they wanted fifteen (15) people there, and run the operation as a Philanthropic Headquarters and maintain a charitable organization, be good citizens and have no more large gatherings / parties / drinking until they would get the additional facilities, or consider option or reapply if revocation occurs tonight. Staff indicated if the Commission revokes the SRP, the Applicant starts over and further indicated for the record, this can be appealed up to City Council within ten (10) days.

Staff indicated the "Deuces" does not have to change their name, and if the Commission supports the revocation, then the SRP "goes away" and how the Applicant were to operate within the COAs.

Discussion ensued between the Commission and Staff regarding further due process and Ms. Monica King who is the Representative of the Philanthropic Organization, how the "Deuces" came up during the court proceedings, and how Ms. King is in the court documents about the Organization did not receive

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because of lack of communication, Staff had mailed documents out Certified Mail / Return Receipt Requested, as well as Regular Mail and that Ms. King no longer lives that the address the City has and that her telephone was disconnected and also sent by Regular Mail to the Organization at the subject Site and that Mr. Butler mentioned that he did receive the City's documents and Staff recommended to go forward with the revocation process.

Mr. Butler stated that Ms. King was not present because she had been hit by a Suburban and had been hurt on her left hip, and is doing bad right now, but she is aware of the situation and that is why he is present. He indicated that it is unfair to revoke the SRP when the differences that we have is that you say we're having a party and we say that we're not, and changes that they are in the process of making can be made while they remain and are occupying the Building and that \$20,000 have been put in the Building and they don't even own the Building. It would be a sad situation to throw them out of the community after they have occupied that Building when that Building was being spray painted on and had mown the lawn in the back and that we take pride in it and we all have jobs. Mr. Butler reiterated that they want to make the changes and in a respectful manner and that they have been there for over three (3) years and have taken into evidence that you say that we are having a party and we are saying that no, we are not and wants a fair chance to make the changes, as necessary, to occupy that Building. .

Chairman Hamerly asked if Mr. Butler understood and explained the process to Mr. Butler and Mr. Butler said right.

Discussion ensued between the Commission and Mr. Butler regarding how Ms. King and Ms. Wells for the Organization could reapply an Application, help the community and be good neighbors and the need to change the intensity use, and be other Public Hearings and other rules that need to be complied with and acknowledge the adjacent uses not infringing on the neighbors. There is a need for Mr. Butler to balance out their documents and if he doesn't agree with the Commission's decision, that it can be appealed up to City Council, and in the interim, it was reiterated for Mr. Butler to gather documents and incorporate into the Staff Report that would support his cause if he wanted to appeal to the City Council.

Ms. Shiri Klima, Attorney from the City Attorney's Office, addressed the Commission. She asked if she understood that Ms. King received the Notice. Mr. Butler responded that he believed the paperwork came in the mail to their location and that she is immobile right now so no, she did not personally receive the Notice and that she was verbally informed by the Club Members.

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Attorney Kilma asked if she was aware of this Hearing and all of the proceedings and Mr. Butler responded affirmatively, but is immobile right now.

Discussion ensued between the Commission, Mr. Butler and Staff regarding when the City is approached with Clubs, Churches, Sororities, etc., that use is a CUP Application and not fitting the Definition type of use by Staff and if operating as a Philanthropic Organization. Staff explained how Mr. Butler is concerned that he believes that he has to come into City Hall every time they have a meeting, and that's Code for large Events and that has been Staff's frustration so we need to close this out and ask the Applicant to come in for a CUP and then Condition it and submit to the Commission as a Club / Fraternity or a Sorority Headquarters not a political or Philanthropic Headquarters. Staff is willing to work with the Applicant and is a benefit to the community, but the impacts with the surrounding community and need to review it as a CUP put restrictions with hours of operation, occupancy, noise, parking, etc., and it won't work with a SRP.

Mr. Butler said that Staff explained that they (the Club) are not using the Facility as a Philanthropic Headquarters, but we are and have been and with proof that they are doing it is the writing, but the proof that we are not is just that they hear loud music. He reiterated how he presented the documents to the Commission of what they are doing in the Building in writing and if Staff doesn't understand what they are doing there, and agreed that it might get a little loud every now and then, however, they say it's loud, so they think it's a party and that's not what is going on there at any given time. He reiterated their name is on the Freeway with Philanthropic activities giving back to the community and fulfilling that title.

Discussion ensued between the Commission, Mr. Butler and Staff regarding not having more than forty-seven (47) people at the Site and the neighbors indicate there are cars lined up on both sides of the street. Mr. Butler responded that there are twenty (20) parking stalls and have room and with twenty-seven parking stalls inside, but he does not go out and count every individual car.

Ms. Cristina Alvarez addressed the Commission. She gave a rebuttal and stated she had called the City's Graffiti hotline reporting graffiti on the Building, but knew of retaliation. Before they (the Club) was there, they took care of the graffiti. She rhetorically asked before the Club was there, and if there were

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supposed to have forty-seven (47) people and twenty-seven parking stalls inside, and with the number of people that can be inside a vehicle and indicated there are more than forty-seven (47) people there because we see them parking up and down their street and that she and the neighbors are unable to park in front of their homes or leave another vehicle outside. Her mother goes out and comes back and she leaves early in the morning and sees them working around the Building there. She understands that it takes money with fixing up the Building and further explained that the neighbors live there and put their money into fixing up their homes. It's a party and is still going on at 3:00 a.m. to 4:00 a.m. and some people may stay all night. It is a large gathering and when the Club was first called about the disturbance, they would ask what's your address and they got to know where you live. She is shaking because she is scared, but it is her neighborhood and has lived there for twenty-five (25) years. Her relatives have lived there all the time and that they are uncomfortable with them (the Club) being there and dealing with them and is a disturbance in their lives because they have to deal with it every day now and is not right to be put through that. Ms. Alvarez she knows about parties and that her parties personally last until 3:00 p.m. for the children and there no beer is served there. You know when you have neighbors, you have to respect them but they (the Club) don't respect the neighbors. She reiterated how they have lived there all of their lives and understands the neighbors have to make accommodations, but they (the Club) needs to have respect for the neighbors, too.

Ms. Tiffany Williams, who is a Member of the Club, addressed the Commission. She stated that she does not want to disrespect the neighbors and invited the neighbors / community for a Meeting. She has talked to a lot of neighbors in the area and that she personally has not received or heard any complaints. They are trying not to disturb the neighbors and have functions for the children, and is not trying to decrease property values, disturb their sleep and not wanting to trash the neighborhood, and how some people walk to the Club. If they do not know about the situation, they can't rectify it.

Chairman Hamerly asked if anyone else would like to speak on the item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

Commissioner Haller indicated that he read the documents carefully that were in the Agenda Packet and disconnect with the Reorganization of Facility and that it is appropriate to restart the process and is supportive of the revocation.

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Vice Chairman Huynh indicated that the Building's Certificate of Occupancy is a B Designation Building occupancy load and is currently for a retail space and music up to 1:00a.m.–2:00 a.m. is not a retail space use. It is the responsibility of the Tenant / Business Owner to watch around the Event and patrons and is in agreement with Commissioner Haller's comments. He added that currently, there is one (1) type of use and they kept expanding and is not applicable for this Activity, at this time and supports the revocation.

Commissioner Willhite indicated he agrees with Commissioner Haller and Vice Chairman Huynh, but feels for Mr. Butler. With regards to a CUP Application, Staff is willing to work with them and what they are doing now is working for them. He has a motorcycle and also belongs to a Club. He reiterated that this Club keeps having problems, but knows this is not working for them.

There being no further questions of Mr. Butler, Staff or discussion amongst the Commissioners, Chairman Hamerly then called for the question.

A MOTION was made by Commissioner Haller and seconded by Commissioner Gamboa to Adopt Planning Commission Resolution No. 2010-014 revoking Staff Review Permit 008-001 to operate a "Philanthropic Headquarter" use at 7709 Victoria Avenue.

Motion unanimously passed on a 7 – 0 vote.

Chairman Hamerly explained to the audience the Commission's determination is appealable to City Council and then encouraged Mr. Butler to provide their documented activities for the City Council.

Mr. Butler asked if they have to cease and desist and vacate the premises and Chairman Hamerly responded for him to talk to Staff.

5.0 LEGISLATIVE

There are none.

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6.0 ANNOUNCEMENTS

Community Development Director Jaquess explained the Items tentatively scheduled for the September 21, 2010, Commission Regular Meeting.

7.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 7:56 p.m.

Submitted by:

Approved by:

Linda McKeough, Community
Development Administrative Assistant III

Randall Hamerly, Chairman
Planning Commission

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