



Legislation Text

File #: 07-0052, **Version:** 2

Recommendation to adopt Hearing Officer Statement of Issues, Findings of Fact, and Summary of Relevant Evidence regarding Entertainment Permit No. BU99041410 issued to Mariposa Restaurant Group LLC, dba Mariposa, 135 Pine Avenue, Long Beach, and instruct staff to suspend the permit, impose entertainment permit conditions requiring Mariposa to limit patron dancing, obtain accurate occupancy load certificates, conduct occupancy counts, maintain occupancy logs, and maintain licensed security personnel as recommended by the Hearing Officer, and issue a Downtown Entertainment District entertainment permit subject to the above recommendations as well as Tier 2 conditions, and commence the suspension on March 9, 2007, as further recommended by staff. (District 2)

This matter is before the City Council to review the attached Hearing Officer Report of Michael R. Diliberto regarding revocation/suspension of entertainment permit number BU99041410 issued on December 11, 2001.

At the direction of the City Council, an administrative permit revocation/suspension hearing commenced September 11, 2006, and concluded December 1, 2006 following a lengthy history of alleged nuisance-related activity at Mariposa.

Evidence was presented to the Hearing Officer by members of the Long Beach Police and Fire Departments, the California Department of Alcoholic Beverage Control, as well as private restaurant security and other restaurant personnel.

The Hearing Officer determined the City met its burden of proof to establish that Mariposa violated its entertainment permit number BU9941410. Among other things, the Hearing Officer's Report concluded that:

Mariposa obtained inflated maximum occupancy load certificates based on architectural floor plans it submitted depicting a dance floor area larger than approved dimensions.

Mariposa exceeded these inflated limits by admitting patrons in excess of as many as 150 persons.

Mariposa provided loud amplified entertainment with open doors, windows, and rollup panels, and provided live entertainment on the patio, in violation of its expressed permit conditions to the contrary.

Numerous fights occurred at Mariposa resulting in head and face lacerations, swollen mouths, and bruised eyes. However, the Hearing Officer determined Mariposa did not cause these incidents.

Members of the Long Beach Police Department were flagged down by Mariposa security to intervene and quell a fight disturbance, during which an officer surrounded by patrons had his police radio ripped from his person. However, the Hearing Officer determined Mariposa did not cause this incident.

Based on the evidence presented, the Hearing recommendations to the City Council:

Officer made the following

Suspend entertainment permit BU99041410 for three weekends comprising Friday and Saturday, with weekends one and two occurring consecutively, and the third weekend occurring no more than 30 days following weekend two;

Require Mariposa to submit fully dimensioned accurate floor plans to the Planning & Building Department for approval;

Require Mariposa to provide these approved plans to the Long Beach Fire Department to obtain accurate maximum occupancy certificates;

Limit the maximum persons allowed on the dance floor to 43;

Require Mariposa to conduct half-hourly occupancy checks, maintain occupancy logs for three years, and make this information available for inspection;

Require Mariposa to consult with the Planning & Building Department, the State Department of Alcohol Beverage Control, and/or a private firm to develop a suitable system for obtaining accurate occupancy counts;

Require Mariposa to maintain six licensed security guards on Friday and Saturday nights when entertainment is provided, and three licensed security guards on all other nights; and

Require Mariposa to maintain, for three years, time sheets for all licensed security guards, and make these documents available for inspection.

In order to fully implement the Hearing Officer's recommendations, City Staff further recommends that the City Council:

Commence the entertainment permit suspension on March 9, 2007;

Require Mariposa to submit revised floor plans to the Planning and Building Department within five working days from the date of this hearing;

Require Mariposa to submit the approved revised floor plans to the Long Beach Fire Department within two business days following plan approval;

Require Mariposa to conduct half-hourly occupancy checks, maintain occupancy logs for three years, and make this information available for inspection; and

Issue Mariposa Restaurant Group, LLC, dba Mariposa, 135 Pine Avenue, Long Beach a Downtown Entertainment District entertainment permit subject to the above conditions, as well as the attached Tier 2 conditions, and in the event any of the conditions are in conflict, require Mariposa to adhere to the strictest of the applicable conditions.

This item was reviewed by Deputy City Attorney Cristyl Meyers and Performance Management and Budget Bureau Manager David Wodynski on January 30, 2007.

The Long Beach Municipal Code requires the hearing to be held February 6, 2007, or at a time thereafter agreed upon.

There is no fiscal impact associated with this item.

Approve recommendation.

MICHAEL A. KILLEBREW
DIRECTOR OF FINANCIAL MANAGEMENT