



Agenda

PUBLIC PROTECTION COMMITTEE

June 23, 2014

1:00 P.M.

651 Pine Street, Room 101, Martinez

Supervisor Federal D. Glover, Chair
Supervisor John Gioia, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. APPROVE Record of Action from the May 6, 2014 meeting. **(Page 4)**
4. CONSIDER accepting a report from the Sheriff's Office regarding Inmate Welfare Fund programs, inmate telecommunications and visitation policies and related funding at County Adult Detention Facilities. (Assistant Sheriff Matthew Schuler, Sheriff's Office) **(Page 7)**
5. CONSIDER approving the proposed work plan for reviewing the Alcoholic Beverage Commercial Sales ordinance (commonly referred to as the "Deemed Approved Ordinance") and PROVIDE direction to staff as necessary. (Bob Calkins, Conservation and Development Department) **(Page 17)**
6. The next meeting is currently scheduled for July 28, 2014 at 1:00 PM.
7. Adjourn

The Public Protection Committee will provide reasonable accommodations for persons with disabilities planning to attend Public Protection Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Public Protection Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day

prior to the published meeting time.

For Additional Information Contact:

Timothy Ewell, Committee Staff
Phone (925) 335-1036, Fax (925) 646-1353
timothy.ewell@cao.cccounty.us

Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB	Assembly Bill	HCD	(State Dept of) Housing & Community Development
ABAG	Association of Bay Area Governments	HHS	Department of Health and Human Services
ACA	Assembly Constitutional Amendment	HIPAA	Health Insurance Portability and Accountability Act
ADA	Americans with Disabilities Act of 1990	HIV	Human Immunodeficiency Syndrome
AFSCME	American Federation of State County and Municipal Employees	HOV	High Occupancy Vehicle
AICP	American Institute of Certified Planners	HR	Human Resources
AIDS	Acquired Immunodeficiency Syndrome	HUD	United States Department of Housing and Urban Development
ALUC	Airport Land Use Commission	Inc.	Incorporated
AOD	Alcohol and Other Drugs	IOC	Internal Operations Committee
BAAQMD	Bay Area Air Quality Management District	ISO	Industrial Safety Ordinance
BART	Bay Area Rapid Transit District	JPA	Joint (exercise of) Powers Authority or Agreement
BCDC	Bay Conservation & Development Commission	Lamorinda	Lafayette-Moraga-Orinda Area
BGO	Better Government Ordinance	LAFCo	Local Agency Formation Commission
BOS	Board of Supervisors	LLC	Limited Liability Company
CALTRANS	California Department of Transportation	LLP	Limited Liability Partnership
CalWIN	California Works Information Network	Local 1	Public Employees Union Local 1
CalWORKS	California Work Opportunity and Responsibility to Kids	LVN	Licensed Vocational Nurse
CAER	Community Awareness Emergency Response	MAC	Municipal Advisory Council
CAO	County Administrative Officer or Office	MBE	Minority Business Enterprise
CCHP	Contra Costa Health Plan	M.D.	Medical Doctor
CCTA	Contra Costa Transportation Authority	M.F.T.	Marriage and Family Therapist
CDBG	Community Development Block Grant	MIS	Management Information System
CEQA	California Environmental Quality Act	MOE	Maintenance of Effort
CIO	Chief Information Officer	MOU	Memorandum of Understanding
COLA	Cost of living adjustment	MTC	Metropolitan Transportation Commission
ConFire	Contra Costa Consolidated Fire District	NACo	National Association of Counties
CPA	Certified Public Accountant	OB-GYN	Obstetrics and Gynecology
CPI	Consumer Price Index	O.D.	Doctor of Optometry
CSA	County Service Area	OES-EOC	Office of Emergency Services-Emergency Operations Center
CSAC	California State Association of Counties	OSHA	Occupational Safety and Health Administration
CTC	California Transportation Commission	Psy.D.	Doctor of Psychology
dba	doing business as	RDA	Redevelopment Agency
EBMUD	East Bay Municipal Utility District	RFI	Request For Information
EIR	Environmental Impact Report	RFP	Request For Proposal
EIS	Environmental Impact Statement	RFQ	Request For Qualifications
EMCC	Emergency Medical Care Committee	RN	Registered Nurse
EMS	Emergency Medical Services	SB	Senate Bill
EPSDT	State Early Periodic Screening, Diagnosis and treatment Program (Mental Health)	SBE	Small Business Enterprise
et al.	et ali (and others)	SWAT	Southwest Area Transportation Committee
FAA	Federal Aviation Administration	TRANSPAC	Transportation Partnership & Cooperation (Central)
FEMA	Federal Emergency Management Agency	TRANSPLAN	Transportation Planning Committee (East County)
F&HS	Family and Human Services Committee	TRE or TTE	Trustee
First 5	First Five Children and Families Commission (Proposition 10)	TWIC	Transportation, Water and Infrastructure Committee
FTE	Full Time Equivalent	VA	Department of Veterans Affairs
FY	Fiscal Year	vs.	versus (against)
GHAD	Geologic Hazard Abatement District	WAN	Wide Area Network
GIS	Geographic Information System	WBE	Women Business Enterprise
		WCCTAC	West Contra Costa Transportation Advisory Committee



Contra Costa County Board of Supervisors

Subcommittee Report

PUBLIC PROTECTION COMMITTEE

3.

Meeting Date: 06/23/2014

Subject: RECORD OF ACTION - May 6, 2014

Submitted For: PUBLIC PROTECTION COMMITTEE,

Department: County Administrator

Referral No.: N/A

Referral Name: RECORD OF ACTION

Presenter: Timothy Ewell, Committee Staff **Contact:** Timothy Ewell, (925)335-1036

Referral History:

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the decisions made in the meeting.

Referral Update:

Attached for the Committee's consideration is the Record of Action for its May 6, 2014 meeting.

Recommendation(s)/Next Step(s):

APPROVE Record of Action from the May 6, 2014 meeting.

Fiscal Impact (if any):

No fiscal impact. This item is informational only.

Attachments

May 6, 2014 Record of Action



Agenda

PUBLIC PROTECTION COMMITTEE

May 6, 2014

1:00 P.M.

651 Pine Street, Room 101, Martinez

Supervisor Federal D. Glover, Chair

Supervisor John Gioia, Vice Chair

Agenda Items: Items may be taken out of order based on the business of the day and preference of the Committee

Present: Federal D. Glover, Chair

John Gioia, Vice Chair

Staff Present: Timothy M. Ewell, Committee Staff

1. Introductions

Convene - 3:04pm

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No Public Comment

3. APPROVE Record of Action from the April 28, 2014 meeting.

Approved as presented.

Vice Chair John Gioia, Chair Federal D. Glover

AYES: Chair Federal D. Glover, Vice Chair John Gioia

Passed

4.

1. ACCEPT the recommendations of the Evaluation Panels and of the Community Corrections Partnership (CCP) with regard to contract awards from the Requests for Qualifications (RFQs) issued for the implementation of the Plans for the establishment of a West County Reentry Resource Center and an East & Central County Networked System of Services.

2. RECOMMEND contract authorization by the Board of Supervisors for the following contracts:

West County Reentry Resource Center

1 Rubicon Programs, Inc. \$800,000

Network Management Team

2 Kathy Moniz-Narasaki \$105,000 *Network Manager*

3	Patrick Mims	\$81,700	<i>Field Operations Coordinator--Concord</i>
4	Vernon Williams III	\$81,700	<i>Field Operations Coordinator--Antioch</i>
5	Eugene Jackson	\$81,700	<i>Field Operations Coordinator--Pittsburg</i>
	<i>sub-total</i>	<i>\$350,100</i>	

Network Service Providers

6	JFK University	\$66,000	<i>Leadership & Entrepreneurialism</i>
7	Brighter Beginnings	\$66,000	<i>Leadership & Entrepreneurialism</i>
8	Prepare My Sheep	\$65,000	<i>Specialized Employment Training</i>
9	New Dream Life Center	\$115,000	<i>Transitional Housing</i>
10	Reach Fellowship International	\$50,000	<i>Education/Employment Liaison</i>
11	Men and Women of Purpose	\$50,000	<i>Education/Employment Liaison</i>
	<i>sub-total</i>	<i>\$412,000</i>	

Chair Federal D. Glover, Vice Chair John Gioia

AYES: Chair Federal D. Glover, Vice Chair John Gioia

Passed

Approved as presented.

In addition, the Committee clarified previous direction that unspent 2013/14 funds should be made available for one-time purchases to assist in the implementation of the plans.

5. The next meeting is currently scheduled for June 23, 2014 at 1:00 pm.

6. Adjourn

Adjourn - 3:40pm

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Contra Costa County Board of Supervisors

Subcommittee Report

PUBLIC PROTECTION COMMITTEE

4.

Meeting Date: 06/23/2014

Subject: Update on Inmate Welfare Programs, Inmate Telecom/Visitation Policies offered at County Adult Detention Facilities

Submitted For: David O. Livingston, Sheriff-Coroner

Department: Office of the Sheriff

Referral No.: N/A

Referral Name: Update on Inmate Welfare Programs, Inmate Telecom/Visitation Policies offered at County Adult Detention Facilities

Presenter: Assistant Sheriff Matthew Schuler **Contact:** Assistant Sheriff Matthew Schuler, 925-335-4643

Referral History:

On July 16, 2013, the Board of Supervisors referred a review of the Inmate Welfare Fund (IWF) and inmate visitation policies to the Public Protection Committee for review. The Inmate Welfare Fund is authorized by Penal Code § 4025 for the "...benefit, education, and welfare of the inmates confined within the jail." The statute also mandates that an itemized accounting of IWF expenditures must be submitted annually to the County Board of Supervisors.

On August 12, 2013, the Public Protection Committee received a report from the Sheriff's Office on, among other things, the inmate telecommunications system in adult detention facilities located within the County. The Committee requested a follow up presentation from the Sheriff's Office at the September PPC meeting to discuss the contract with Praeses, LLC specifically for reconciliation of inmate telecommunications services.

On September 9, 2013, the Committee received an update from the Sheriff's Office regarding consulting services provided by Praesus, LLC to assist in developing an RFP for inmate telecommunications services. During that meeting, the Committee requested a list of programs provided by the Sheriff's Office in Adult Detention Facilities and source of funding.

On October 14, 2013, the Committee received a presentation from the Sheriff's Office on programming offered at each of the three County Adult Detention Facilities and identified the related funding source. The Committee requested that the Sheriff's Office return at a future date to continue the discussion and provide information regarding the RFP to be released for a inmate telecommunications provider.

On December 9, 2013, the Committee received an update from the Sheriff's Office on the status of the RFP and the work being conducted by Praeses, LLC on behalf of the County to assist in development of the RFP. The Sheriff's Office was requested to return at a future meeting date for

an update.

On April 28, 2014, the Committee received an update from the Sheriff's Office on this status of the RFP for inmate telecommunications services. The Sheriff's Office notified the Committee that the draft RFP was received earlier that morning and was under review. The Committee requested that the Sheriff's Office provide a copy of the RFP to assist with the discussion at the next regularly scheduled meeting.

Referral Update:

The Sheriff's Office will provide an update to the Committee regarding Inmate Welfare Fund programs, inmate telecommunications and visitation policies and related funding at County Adult Detention Facilities. The Inmate Telecom RFP is not available for review at this meeting.

Assistant Sheriff Matthew Schuler will be available to discuss the item and answer any questions that the Committee may have.

Recommendation(s)/Next Step(s):

ACCEPT a report from the Sheriff's Office regarding Inmate Welfare Fund programs, inmate telecommunications and visitation policies and related funding at County Adult Detention Facilities.

Fiscal Impact (if any):

No fiscal impact. This report is informational only.

Attachments

Inmate Programming with Funding Source
2012/13 Inmate Welfare Fund Annual Report
Probation Dept. Telecom - 5 Year History
Assembly Bill 1876 - as amended April 10, 2014
Penal Code Section 4025

Current Offender Programming & Funding Source

Inmate Welfare Fund (IWF)
Contra Costa County Office of Education (CCCOE)
West County Detention Facility (WCDF)
Martinez Detention Facility (MDF)
Marsh Creek Detention Facility (MCDF)

	Programs	Funding
	WCDF, Male- Adult Basic Education (ABE)	CCCOE & IWF
	WCDF, Male- General Educational Development (GED)	CCCOE & IWF
	WCDF, Male- High School Diploma (HSD)	CCCOE & IWF
	WCDF, Male- Computer Applications and Web Design	CCCOE & IWF
	WCDF, Male- Drug Education Understanding Counseling Evaluating (DEUCE)	CCCOE & IWF
	WCDF, Male- English as a Second Language (ESL)	CCCOE & IWF
	WCDF, Male- Independent Study (GED)	CCCOE & IWF
	WCDF, Male- Independent Study (HSD)	CCCOE & IWF
	WCDF, Male- Parenting Inside Out (PIO)	CCCOE & IWF
	WCDF, Male- Reentry	CCCOE & IWF
	WCDF, Male- Religious Programs	IWF
	WCDF, Male- Library Program	IWF
	WCDF, Male- Narcotics Anonymous	No Fee
	WCDF, Male- Alcoholics Anonymous	No Fee
	WCDF, Male- Batterer's Workshop	Courts
	WCDF, Male- CBO Reentry	AB- 109
	WCDF, Female- Independent Study (GED)	CCCOE & IWF
	WCDF, Female- Independent Study (HSD)	CCCOE & IWF
	WCDF, Female- Computer Applications and Web Design	CCCOE & IWF
	WCDF, Female- Drug Education Understanding Counseling Evaluating (DEUCE)	CCCOE & IWF
	WCDF, Female- Parenting Inside Out (PIO)	CCCOE & IWF
	WCDF, Female- Reentry	CCCOE & IWF
	WCDF, Female- Religious Programs	IWF
	WCDF, Female- Library Program	IWF
	WCDF, Female- Vocational Engraving Sign Shop	IWF
	WCDF, Female- Narcotics Anonymous	No Fee
	WCDF, Female- Alcoholics Anonymous	No Fee
	WCDF, Female- CBO Reentry	AB-109
	WCDF, Female- Pregnant Inmate Program	HHS
	MDF, Male- Independent Study (GED)	CCCOE & IWF
	MDF, Male- Independent Study (HSD)	CCCOE & IWF
	MDF, Male- Religious Programs	IWF
	MDF, Male- Library cart delivery only	IWF

MDF, Female- Independent Study (GED)	CCCOE & IWF
MDF, Female- Independent Study (HSD)	CCCOE & IWF
MDF, Female- Religious Programs	IWF
MDF, Female- Library Program cart delivery only	IWF
Sentenced Offender Programs	CCCOE & IWF
MCDF, Male- Adult B asic E ducation (ABE)	CCCOE & IWF
MCDF, Male- G eneral E ducational D evelopment (GED)	CCCOE & IWF
MCDF, Male- H igh S chool D iploma (HSD)	CCCOE & IWF
MCDF, Male- D rug E ducation U nderstanding C ounseling E valuating (DEUCE)	CCCOE & IWF
MCDF, Male- Independent Study (GED)	CCCOE & IWF
MCDF, Male- Independent Study (HSD)	CCCOE & IWF
MCDF, Male- Religious Programs	IWF
MCDF, Male- Library Program	IWF
MCDF, Male- Vocational Landscape Program	IWF
MCDF, Male- Vocational Viticulture Program	IWF
MCDF, Male- Vocational Frame Shop Program	IWF
MCDF, Male- Vocational Wood Shop Program	IWF
MCDF, Male- CBO Reentry	AB-109

Inmate Welfare Fund
Statement of Receipts, Disbursements, and Fund Balance
Fiscal Year Ended June 30, 2013

Receipts:

GTL Telephone Commissions	\$693,778	
Canteen Commissions	713,651	
WCDF Inmate Industries	69,222	
MCDF Frame Shop	8,146	
Investment Interest	977	
Miscellaneous	<u>6,761</u>	
 Total Receipts		 \$1,492,535

Disbursements:

Entertainment		
Purchase of TV's/VCR's/DVD's/Accessories	\$	
Public Performance License & Movie Rental	2,666	
Inmate Work Crew Refreshments/Treats	<u>16,302</u>	
Sub-Total		\$ 18,968
Recreation		
Table/Board Games/Sports Equipment		
Satellite TV Service	<u>\$29,741</u>	
Sub-Total		\$ 29,741
Education and Welfare		
Bay Area Chaplains Contractual Services	\$115,058	
Office of Education Contractual Services	495,271	
Library Program	214,984	
Inmate Legal Services	43,779	
MCDF Landscape Program	36,182	
WCDF Inmate Industries	201,038	
BART and Bus Tickets	53,250	
MCDF Frame Shop Program	<u>19,496</u>	
Sub-Total		\$1,179,058

Personal Care/Hygiene		
Hair Clippers, Curling Irons, Hair Dryers, Electric Razors, etc.	<u>\$12,341</u>	
Sub-Total		\$ 12,341
Equipment Maintenance		
Furniture, Electronic, etc.	<u>\$10,266</u>	
Sub-Total		\$ 10,266
Other		
Staff Salaries/Benefits	\$142,060	
Staff Travel Expenses	1,524	
Communication	1,481	
Office Supplies	142	
Office Equipment	1,279	
Specialized Services & Supplies	22,198	
Sub-Total		\$ 168,684
 Total Disbursements		 \$1,419,058
 Receipts less Disbursements		 \$ 73,477
Cash Reserved for Operating Expenses		\$1,365,571
Total		\$1,439,048

0313	PROBATION OFFICERS SPECIAL FUND	2013/14	2012/13	2011/12	2010/11	2009/10
		YTD	ACTUAL	ACTUAL	ACTUAL	ACTUAL
E1000	Salaries and Benefits	0	0	0	21,072	0
E2000	Services and Supplies	18,631	47,066	25,791	38,558	16,780
E3000	Other Charges	32,000	32,056	3,381	31,980	44,773
E5000	Expenditure Transfers	15	0	0	0	0
GRSCST	GROSS EXPENDITURES	50,631	79,122	29,172	91,610	61,552
TOTEXP	TOTAL EXPENDITURES	50,646	79,122	29,172	91,610	61,552
TOTREV	GROSS REVENUE	44,029	54,274	51,758	73,236	65,593
NETCOST	NET FUND COST (NFC)	6,617	24,848	(22,586)	18,374	(4,041)
1081	Labor Received/Provided	0	0	0	21,072	0
2100	Office Expense	0	13	0	0	0
2102	Books-Periodicals-Subscriptions	0	0	0	0	139
2103	Postage	0	0	6	0	0
2131	Minor Furniture/Equipment	2,279	0	0	0	173
2150	Food	5,449	5,337	6,713	8,871	4,961
2160	Clothing & Personal Supplies	4,404	11,292	9,405	11,969	2,156
2170	Household Expense	0	484	0	0	203
2270	Maintenance - Equipment	1,776	0	0	0	0
2281	Maintenance of Buildings	1,060	11,088	1,952	0	0
2282	Grounds Maintenance	0	601	0	0	0
2476	Recreation	843	15,653	3,262	7,104	3,128
2477	Ed Supplies and Courses	0	473	1,619	2,460	1,115
2479	Other Special Departmental Exp	0	0	0	0	0
2490	Misc Services & Supplies	2,820	2,125	2,834	8,154	4,905
3611	Interfund Exp - Gov/Gov	32,000	32,056	1,980	31,980	44,773
3620	Gen Svc-Requested Mntce	0	0	1,401	0	0
5016	Intrafund-Trans-Gov/Gov	15	0	0	0	0
5022	Intrafund-Trans-Services	0	0	0	0	0
9956	Transfers-Gov/Gov	0	0	0	0	0
9964	Unrestricted Donations	0	0	200	350	3,125
9965	Restricted Donations	200	200	500	1,685	0
9975	Misc Non-Taxable Revenue	43,829	54,074	51,058	71,201	62,468

as of May 23, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1876

Introduced by Assembly Member Quirk

February 19, 2014

An act to add Chapter 3.2 (commencing with Section 22120) to Part 3 of Division 2 of the Public Contract Code, relating to ~~county jails~~ *detention facilities*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1876, as amended, Quirk. ~~County jails: Jails and juvenile facilities:~~ telephone service contracts.

Existing law imposes specified procedural and substantive content requirements on contracts entered into by local agencies, including cities and counties.

This bill would *require any contract to provide telephone services to any person detained or sentenced to a jail or juvenile facility to be negotiated and awarded to an entity that meets the jail or juvenile facility's technical and functional requirements for services, and that provides the lowest cost of service to any person who pays for the telephone service. The bill would additionally prohibit a county jail from accepting a any contract to provide telephone services to any person detained or sentenced to a jail or juvenile facility from including any commission or other payment from a telephone company as an incentive to adopt a contract for providing telephone services to inmates of the jail to the entity operating the jail or juvenile facility.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.2 (commencing with Section 22120)
2 is added to Part 3 of Division 2 of the Public Contract Code, to
3 read:

4
5 CHAPTER 3.2. ~~COUNTY JAILS~~ CONTRACTS FOR TELEPHONE
6 SERVICES IN JAILS AND JUVENILE FACILITIES
7

8 ~~22120. A county jail shall not accept a commission or other~~
9 ~~payment from a telephone company as an incentive to adopt a~~
10 ~~contract for providing telephone services to inmates of the jail.~~

11 22120. (a) *Any contract to provide telephone services to any*
12 *person detained or sentenced to a jail or juvenile facility shall be*
13 *negotiated and awarded to an entity that meets the jail or juvenile*
14 *facility's technical and functional requirements for services, and*
15 *that provides the lowest cost of service to any person who pays*
16 *for the telephone service.*

17 (b) *A contract to provide telephone services to any person*
18 *detained or sentenced to a jail or juvenile facility shall not include*
19 *any commission or other payment to the entity operating the jail*
20 *or juvenile facility.*

21 (c) *For purposes of this section, the following terms have the*
22 *following meanings:*

23 (1) *"Jail" means a county jail, a municipal jail, or a privately*
24 *operated jail.*

25 (2) *"Juvenile facility" means any juvenile hall, camp, ranch,*
26 *or other facility where a person is detained as a result of a petition*
27 *pursuant to Section 601 or 602 of the Welfare and Institutions*
28 *Code.*

O



PART 3. OF IMPRISONMENT AND THE DEATH PENALTY [2000. - 10007.] (*Part 3 repealed and added by Stats. 1941, Ch. 106.*)

TITLE 4. COUNTY JAILS, FARMS AND CAMPS [4000. - 4351.] (*Heading of Title 4 amended by Stats. 1957, Ch. 50.*)

CHAPTER 1. County Jails [4000. - 4030.] (*Heading of Chapter 1 added by Stats. 1957, Ch. 50.*)

4025. (a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionery, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and sell these goods, articles, and supplies for cash to inmates in the jail.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of the county.

(c) There shall also be deposited in the inmate welfare fund 10 percent of all gross sales of inmate hobbycraft.

(d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated.

(e) The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. Inmate welfare funds shall not be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that inmate welfare funds may be used to augment those required county expenses as determined by the sheriff to be in the best interests of inmates. An itemized report of these expenditures shall be submitted annually to the board of supervisors.

(f) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(g) The operation of a store within any city adult detention facility shall be governed by the provisions of this section, except that city officials shall assume the respective duties otherwise outlined in this section for county officials.

(h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the inmate welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the inmate welfare fund.

(i) The sheriff may expend money from the inmate welfare fund to provide indigent inmates, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county or, at the discretion of the sheriff, transportation to the inmate's county of residence, if the county is within the state or within 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the inmate welfare fund for the transfer of any inmate to the custody of any other law enforcement official or jurisdiction.

(*Amended by Stats. 2007, Ch. 251, Sec. 1. Effective January 1, 2008.*)



Contra Costa County Board of Supervisors

Subcommittee Report

PUBLIC PROTECTION COMMITTEE

5.

Meeting Date: 06/23/2014

Subject: REFERRAL OF COUNTY ALCOHOLIC BEVERAGE SALES
COMMERCIAL ACTIVITIES ORDINANCE

Submitted For: Catherine Kutsuris, Conservation and Development Director

Department: Conservation & Development

Referral No.: N/A

Referral Name: REFERRAL OF COUNTY ALCOHOLIC BEVERAGE SALES
COMMERCIAL ACTIVITIES ORDINANCE

Presenter: Bob Calkins, (925) 674-7877 **Contact:** Bob Calkins, (925) 674-7877

Referral History:

On June 3, 2014 the Board of Supervisors referred to Public Protection Committee a review of the Alcoholic Beverage Sales Commercial Activities Ordinance. In 2002, the Board of Supervisors adopted Ordinance No. 2002-33, which established Chapter 82-38 of the County Ordinance Code. The Ordinance regulates Alcoholic Beverage Sales Commercial Activities, which are locations where the retail sale of alcoholic beverages occur.

The ordinance requires land use permits for newly established Alcoholic Beverage Sales Commercial Activities, confers Deemed Approved ("grandfathered") Status on existing Alcoholic Beverage Sales Commercial Activities, and provides standards and an administrative hearing process to review violations of those standards, in order to protect the general health and welfare of the residents of the County and to prevent nuisance activities where alcoholic beverage sales occur. Since 2002, there may have been additional alcoholic beverage products released and marketed within the unincorporated area that are contributing to nuisance activities, but are not included in the County Ordinance Code.

Referral Update:

The Department of Conservation and Development has developed a 4-phase work plan to examine the overall adequacy of the Deemed Approved ordinance and to explore possible amendments.

Bob Calkins, CDBG Program Manager, will make a presentation to the Committee on the work plan and answer any questions that the Committee may have.

Recommendation(s)/Next Step(s):

APPROVE the proposed work plan for reviewing the Alcoholic Beverage Commercial Sales ordinance (commonly referred to as the "Deemed Approved Ordinance") and PROVIDE direction to staff as necessary.

Fiscal Impact (if any):

No fiscal impact.

Attachments

Alcoholic Beverage Sales Commercial Activities Ordinance - Staff Report



CONTRA COSTA COUNTY
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601
Telephone: 674-7877 Fax: 674-7250

TO: Public Protection Committee
Supervisor Federal Glover
Supervisor John Gioia

FROM: Catherine Kutsuris, Director
By: Bob Calkins, CDBG Program Manager

DATE: June 23, 2014

SUBJECT: Proposed Work Plan to Review Ordinance 82-38 – Alcoholic Beverage Sales Commercial Activities (Deemed Approved Ordinance)

RECOMMENDATION

APPROVE the proposed work plan for reviewing the "Deemed Approved" ordinance.

BACKGROUND

Through the efforts of District 5 Supervisor Federal Glover, it has come to the attention of the Board of Supervisors that a type of alcoholic beverage product known as "alcopops" has been identified as a contributor to under-age drinking in the County. On June 3, 2014, the Board of Supervisors referred to this Committee (Attachment #1) the task of reviewing Chapter 82-38 of the ordinance code, known as the "Deemed Approved" ordinance (Attachment #2) to determine if relevant changes can, or need to be made to the ordinance in order to better regulate the sale of alcopops by liquor stores, as well as reviewing the entire ordinance to make any needed changes that would improve its overall effectiveness relating the sale of alcohol in the unincorporated areas.

A 4-phase work plan has been developed by the Department Conservation and Development (DCD) to examine the overall adequacy of the Deemed Approved ordinance and to explore possible amendments that could be made to specifically address the sale of alcopops.

Phase I: Data Gathering (June/July 2014)

In this phase of the process, data will be collected from various sources including the Health Services Department and the state Alcoholic Beverage Control, related to:

- Determining how alcohol consumption/sales impact communities especially its youth.
- Identifying viable resources for quantitative data collection and analysis regarding community impact aspects of alcohol sales on the community and general compliance with Deemed Approved Ordinance.
- Mapping of existing alcohol-sales outlets in relation to schools, public parks, playgrounds, recreational areas, churches, etc.
- Researching existing literature on alcopops.
- Reviewing and updating the list of Deemed Approved alcohol-sales outlets and establish protocols/methods of verifying "exempt status" of alcohol-selling establishments.
- Updating all Deemed Approved contact information, brochure, literature and electronic information.
- Cross referencing State ABC list of active liquor licenses in the unincorporated County against the current Deemed Approved list and Tax Collector's list of Deemed Approved fees collected.

Phase II: Site Inspections (July/August 2014)

Site visits will be conducted by DCD's Code Enforcement Division to all of the deemed approved locations in the unincorporated areas. The task list will include:

- Conduct site inspections of all Deemed Approved alcohol selling establishments to verify compliance with current Ordinance (Sec. 82-38.808).
- Review complaint data and/or law enforcement actions, if any, for each establishment.
- Compile/analyze results of site visits and complaint/law enforcement action data.

Phase III: Analyze Data (July/August 2014)

This phase will consist of analyzing the data collected in Phase I, and analyzing the field information gathered from the site inspections conducted by Code Enforcement. This information will aid in developing a strategy for making policy recommendations, updates, or changes to the Deemed Approved ordinance and enforcement procedures that will allow the County to better regulate the sale of alcohol in the unincorporated areas.

Phase IV: Develop Policy Recommendations (August/September 2014)

Working with the Public Protection Committee, determine what kinds of policies along with possible revisions to the Deemed Approved ordinance should be recommended to the Board of Supervisors that will help the affected communities in a real and meaningful way. Any policy revisions and ordinance changes will then be presented to

the Planning Commission for review and approval, and ultimately considered by the Board of Supervisors.

Attachments



Contra
Costa
County

To: Board of Supervisors
From: Federal D. Glover
Date: June 3, 2014

Subject: REFER to Public Protection Committee a review of the Alcoholic Beverage Sales Commercial Activities Ordinance

RECOMMENDATION(S):

REFER to the Public Protection Committee a review of Ordinance Code Chapter 82-38 entitled "Alcoholic Beverage Sales Commercial Activities", to determine whether the Code should be amended to address certain alcoholic beverage products that may contribute to nuisance activities in the County.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

In 2002, the Board of Supervisors adopted Ordinance No. 2002-33, which established Chapter 82-38 of the County Ordinance Code. The Ordinance regulates Alcoholic Beverage Sales Commercial Activities, which are locations where the retail sale of alcoholic beverages occur. The ordinance requires land use permits for newly established Alcoholic Beverage Sales Commercial Activities, confers Deemed Approved ("grandfathered") Status on existing Alcoholic Beverage Sales Commercial Activities, and provides standards and an administrative hearing process to review violations of those standards, in order to protect the general health and welfare of the residents

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: 06/03/2014 APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYES 5 NOES _____

ABSENT _____ ABSTAIN _____

RECUSE _____

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 3, 2014

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Ed Diokno, 925-427-8138

By: Stephanie L. Mello, Deputy

cc:

BACKGROUND: (CONTD)

of the County and to prevent nuisance activities where alcoholic beverage sales occur.

Since 2002, there may have been additional alcoholic beverage products released and marketed within the unincorporated area that are contributing to nuisance activities, but are not included in the County Ordinance Code. This action directs the Public Protection Committee to review Chapter 82-38 for potential updates.

CONSEQUENCE OF NEGATIVE ACTION:

The current County Ordinance Code will not be reviewed and may not reflect current trends in the alcoholic beverage market.

CHILDREN'S IMPACT STATEMENT:

Ordinance No. 2002-33 was originally adopted by the Board of Supervisors to assist in protecting the general health and welfare of residents within the County, including children.

Contra Costa County, California, Ordinance Code >> Title 8 - ZONING >> Division 82 - GENERAL REGULATIONS >> Chapter 82-38 ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES >>

Chapter 82-38 ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES

Sections:

Article 82-38.2. General

82-38.202 Purpose and administration.

82-38.204 Definitions.

82-38.206 Inspection and right of entry.

82-38.208 Administrative hearing officer.

82-38.402 Existing alcoholic beverage sales commercial activities.

82-38.404 Transfer or revocation of alcoholic beverages control licenses.

82-38.406 Change in mode or character of operation.

82-38.602 Requirement.

82-38.604 Restrictions.

82-38.606 Findings.

82-38.608 Granting.

82-38.610 Conditions of approval.

82-38.802 Purpose.

82-38.804 Applicability.

82-38.806 Deemed approved activity.

82-38.808 Deemed approved performance standards.

82-38.810 Posting.

82-38.812 Notification to owners of deemed approved activities.

82-38.814 Violations of performance standards, conditions of approval for continued deemed approved status following violation.

82-38.816 Procedure for consideration of violations to conditions of approval.

82-38.1002 Appeal to board of supervisors.

82-38.1004 Notification of public hearing.

82-38.1006 Fee schedule.

82-38.1008 Violations and penalties.

82-38.202 Purpose and administration.

This chapter requires and provides criteria for the consideration and approval of land use permits before a new alcoholic beverage sales commercial activity will be permitted in any land use zoning district of this county. This chapter further confers deemed approved status upon existing alcoholic beverage sales commercial activities. The county finds it necessary to establish land use permit requirements and criteria in the interest of the public health, safety and welfare to regulate alcoholic beverage sales commercial activities in the unincorporated area. This chapter alone does not allow or permit alcoholic beverage sales commercial activities, but only applies to these activities where otherwise allowed or permitted within an involved applicable land use zoning district. This chapter does not authorize alcoholic beverage sales commercial activities in any land

use district where they are not otherwise allowed or permitted by the applicable involved zoning district's regulations.

(Ord. 2002-33 § 2).

82-38.204 Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

- (a) "Administrative Hearing Officer." The zoning administrator or his or her designee is the alcoholic beverage sales administrative hearing officer.
- (b) "Alcoholic Beverage." Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, that meets the following criteria: (1) contains one-half of one percent or more of alcohol by volume; (2) is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances; and (3) sales of which require a state of California Department of Alcoholic Beverage Control license.
- (c) "Alcoholic Beverage Sales Commercial Activity." The retail sale, for on-premises or off-premises consumption, of alcoholic beverages. A full-service restaurant is not an alcoholic beverage sales commercial activity.
- (d) "Condition of Approval." A requirement that must be carried out by: (1) a new alcoholic beverage sales commercial activity to exercise a land use permit; or (2) an existing alcoholic beverage sales commercial activity to comply with deemed approved performance standards and to retain its deemed approved status.
- (e) "Crime Reporting Districts." Geographical areas within the boundaries of the unincorporated area of the county that are identified by the Contra Costa County sheriff's department in the compilation and maintenance of statistical information on reported crimes and arrests.
- (f) "Deemed Approved Activity." Any alcoholic beverage sales commercial activity existing immediately before the effective date of this chapter is a deemed approved activity if it complies with the deemed approved performance standards in Section 82-38.808.
- (g) "Deemed Approved Performance Standards." The standards set forth in Section 82-38.808.
- (h) "Deemed Approved Status." The status conferred by this ordinance upon a deemed approved activity in accordance with Section 82-38.806.
- (i) "Full-Service Restaurant." A place that: (1) is primarily, regularly and in a bona fide manner used and kept open for the serving of at least dinner to guests for compensation; and (2) has kitchen facilities containing conveniences for cooking an assortment of foods that may be required for those meals; and (3) obtains a minimum of sixty-seven percent of its gross receipts from the sale of meals and other food and drink non-alcoholic products; and (4) submits evidence of total meal and other non-alcoholic product sales to county officials upon request for purposes of determining its status under this ordinance. A place that sells or serves only sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or only snack foods, or both, is not a full-service restaurant.
- (j) "License." A valid state of California Department of Alcoholic Beverage Control license.
- (k)

"Off-Sale Alcohol Outlet." An establishment that conducts retail sales of alcoholic beverages for consumption off the premises where sold.

- (l) "On-Sale Alcohol Outlet." An establishment that conducts retail sales of alcoholic beverages for consumption on the premises where sold, excluding full-service restaurants.

(Ord. 2002-33 § 2).

82-38.206 Inspection and right of entry.

- (a) County staff designated by the county administrator to enforce this ordinance may enter an alcoholic beverage sales commercial activity during normal business hours whenever they have cause to suspect a violation of any provision of this chapter or to investigate alleged violations of the deemed approved performance standards or conditions of approval prescribed in this chapter.
- (b) An owner or occupant, or agent of an owner or occupant, who refuses to permit entry and investigation into premises open to the public is subject to civil or criminal prosecution.

(Ord. 2002-33 § 2).

82.38.208 Administrative hearing officer.

The administrative hearing officer will conduct public hearings and make determinations in accordance with Section 82-38.406, Section 82-38.814, and Section 82-38.816 to obtain compliance with this chapter. This section is not intended to restrict the powers and duties of other county officers or bodies that monitor alcoholic beverage sales commercial activities in the unincorporated area of the county to ensure compliance with applicable laws, statutes, and regulations.

(Ord. 2002-33 § 2).

Article 82-38.4. Nonconforming Use Provisions for Existing Alcoholic Beverage Sales Commercial Activities

82-38.402 Existing alcoholic beverage sales commercial activities.

On premises for which a license has been issued and where these premises are being used to exercise the rights and privileges conferred by the license at a time immediately before the effective date of this chapter, the premises may continue to be used to exercise the same rights and privileges without requiring a land use permit. This use is a nonconforming use, subject to the nonconforming use provisions of Chapter 82-8 of the county ordinance code (except as otherwise provided in this chapter or in the

Alcoholic Beverage Control Act, Division 9 of the Business and Professions Code), and is entitled to deemed approved status, subject to Article 82-38.8.

(Ord. 2002-33 § 2).

82-38.404 Transfer or revocation of alcoholic beverages control licenses.

- (a) If a license is to be transferred to a new owner, the community development director is authorized under Business and Professions Code Section 23800(e), on behalf of the county, to request that the state of California Department of Alcoholic Beverage Control within thirty days after the filing of a transfer application (or a longer period if allowed by law) impose

conditions to mitigate problems at or in the immediate vicinity of the premises on any licenses being transferred to new owners.

- (b) If a license is to be transferred to a new premises, the alcoholic beverage sales commercial activity must apply for a land use permit in accordance with the requirements of Chapter 26-2, Chapter 82-6, and this chapter.
- (c) If a license is revoked by the state of California Department of Alcoholic Beverage Control, after the revocation becomes a final order the alcoholic beverage sales commercial activity must cease operation and may not resume unless it applies for and obtains a land use permit in accordance with this chapter.

(Ord. 2002-33 § 2).

82-38.406 Change in mode or character of operation.

- (a) The administrative hearing officer may hold a public hearing to determine whether a land use permit is required for an existing alcoholic beverage sales commercial activity if any of the following occur:
 - (1) An alcoholic beverage sales commercial activity discontinues operation for more than one hundred twenty days;
 - (2) An alcoholic beverage sales commercial activity surrenders, abandons, closes, or quits its licensed premises;
 - (3) An alcoholic beverage sales commercial activity's license is surrendered or suspended;
 - (4) An existing alcoholic beverage sales commercial activity changes its activity so that the state of California Department of Alcoholic Beverage Control requires a different type of license;
 - (5) An existing alcoholic beverage sales commercial activity expands the floor area devoted to the display or sales of alcoholic beverages, or both, by more than twenty percent;
 - (6) Any other circumstances that results in a substantial change in the mode or character of operation of the alcoholic beverage sales commercial activity, except for those circumstances listed in subdivision (b) of Section 23790 of the California Business and Professions Code.
- (b) The purpose of a public hearing under this article is to receive testimony and determine whether the premises have operated continuously without substantial change in the mode or character of operation. Notice of the public hearing will be in accordance with Section 82-38.1004.
- (c) At the conclusion of a public hearing under this article, the administrative hearing officer may determine that a substantial change in the mode or character of operation of the premises either has occurred or has not occurred.
- (d) If the administrative hearing officer determines that a substantial change in the mode or character of operation of the premises has occurred, the alcoholic beverage sales commercial activity must cease operation and may not resume unless it applies for and obtains a land use permit in accordance with this chapter.
- (e) The determination of the administrative hearing officer becomes final thirty calendar days after the date of decision unless appealed to the board of supervisors in accordance with Section 82-38.1002.

(Ord. 2002-33 § 2).

Article 82-38.6. Land Use Permits for New Alcoholic Beverage Sales Commercial Activities

82-38.602 Requirement.

Notwithstanding any other provisions of this code, no new alcoholic beverage sales commercial activity may be established unless a land use permit is first obtained in accordance with the requirements of Chapter 26-2, Chapter 82-6, and this chapter.

(Ord. 2002-33 § 2).

82-38.604 Restrictions.

- (a) A new alcoholic beverage sales commercial activity is not permitted in any of the following locations:
 - (1) Within seven hundred feet of an existing alcoholic beverage sales commercial activity;
 - (2) Within four hundred feet of any of the following: a public or private accredited school; a public park, playground or recreational area; a place of worship; a hospital; an alcohol or other drug abuse recovery to treatment facility; or a county social service office;
 - (3) Within a crime reporting district, or within six hundred feet of a crime reporting district, where the general crime rate exceeds the countywide general crime rate by more than twenty percent.
- (b) The distance restrictions of subsection (a) do not apply to any new alcoholic beverage sales commercial activity that has twenty-five or more full time equivalent (FTE) employees and a total floor area of twenty thousand square feet or more, and sells from the premises food and other groceries for home consumption.
- (c) The distances specified in subsection (a) will not be measured from any establishment that is not generally open to the public, including private clubs and lodges.

(Ord. 2002-33 § 2).

82-38.606 Findings.

No land use permit to allow a new alcoholic beverage sales commercial activity will be issued unless all of the following findings are made in addition to the findings required by Section 26-2.2008 and Section 82-6.002:

- (a) A finding of "public convenience and necessity" (Business and Professions Code Section 23958.4(b)(2)), if the activity will be located in an area that has been determined by the state of California Department of Alcoholic Beverage Control to have an undue concentration of licenses as defined in Business and Professions Code Section 23958.4(a).
- (b) A finding that the alcoholic beverage sales commercial activity will not aggravate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.

(Ord. 2002-33 § 2).

82-38.608 Granting.

Land use permits to modify the location provisions contained in this article may be granted under this chapter and in accordance with Chapters 26-2 and 82-6.

(Ord. 2002-33 § 2).

82-38.610 Conditions of approval.

Reasonable conditions of approval may be imposed, including but not limited to those listed in Section 82-38.814, as part of approval of any land use permit issued under this article.

(Ord. 2002-33 § 2).

Article 82-38.8. Standards and Procedures for Existing Alcoholic Beverage Sales Commercial Activities

82-38.802 Purpose.

The general purposes of this article are:

- (a) to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that alcoholic beverage sales commercial activities that are legal nonconforming activities under this chapter and considered to be deemed approved activities comply with the deemed approved performance standards at Section 82-38.808; and,
- (b) to achieve the following objectives:
 - (1) protect residential, commercial, industrial, and civic areas and minimize the adverse impacts of nonconforming and incompatible uses;
 - (2) provide opportunities for alcoholic beverage sale commercial activities to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
 - (3) provide mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, unruly behavior and escalated noise levels;
 - (4) prevent alcoholic beverage sales commercial activities from becoming a source of public nuisances in the community; and
 - (5) provide for properly maintained alcoholic beverage sale establishments to minimize impacts to the surrounding environment.

(Ord. 2002-33 § 2).

82-38.804 Applicability.

This article applies, to the extent permissible under other laws, to alcoholic beverage sales commercial activities existing and operating on the effective date of this chapter within the unincorporated area of the county. The nonconforming use provisions of the county's zoning regulations, including but not limited to Chapter 82-8, apply to this article, except as otherwise provided in this chapter.

(Ord. 2002-33 § 2).

82-38.806 Deemed approved activity.

All alcoholic beverage sales commercial activities existing and operating with all required licenses on the effective date of this chapter will automatically become deemed approved activities as of the effective date of this chapter. Each deemed approved activity retains its deemed approved

- (e) state that a review fee is required in accordance with Section 82-38.1006 and must state the amount of the fee; and
- (f) state that the activity must comply with this ordinance.

(Ord. 2002-33 § 2).

82-38.814 Violations of performance standards, conditions of approval for continued deemed approved status following violation.

- (a) If the county receives a complaint from the public, sheriff, or any other interested party that a deemed approved activity is not complying with the performance standards set forth in Section 82-38.808, the administrative hearing officer may review the deemed approved status of the deemed approved activity in question at a public hearing. Notification of the public hearing will be made in accordance with Section 82-38.1004 and must include notification that the officer will consider the deemed approved status of the deemed approved activity.
- (b) The purpose of the public hearing is to receive testimony on whether the operating methods of the deemed approved activity are causing negative impacts in the surrounding area. At the public hearing, the administrative hearing officer will determine whether the deemed approved activity conforms to the deemed approved performance standards set forth in Section 82-38.808. At the conclusion of the hearing, the administrative hearing officer may continue the deemed approved status for the activity in question or may require changes or impose reasonable conditions of approval to retain deemed approved status. The officer's decision will be based on information in staff documents and testimony from the business owner and all other interested parties. The deemed approved activity must comply with these conditions. The determination of the administrative hearing officer becomes final thirty calendar days after the date of decision unless appealed to the board of supervisors under Section 82-38.1002.
- (c) The administrative hearing officer may impose conditions of approval relating to one or more of the following:
 - (1) entertainment uses, activities, or amusement devices on the premises;
 - (2) separation, monitoring, or design of area devoted to alcohol sales;
 - (3) security measures;
 - (4) lighting, litter, trash receptacles, graffiti or nuisance abatement, or other similar requirements; or
 - (5) maintenance.
- (d) Specific conditions of approval that may be imposed include but are not limited to the following:
 - (1) Soundwalls. If the alcoholic beverage sales commercial activity abuts residential uses and is allowed in the involved zoning district, a soundwall may be required between the activity and the abutting residential uses. The soundwall must be no higher than six feet and must not obstruct the view of the building and parking areas from the street. Vegetation may be required to be planted along the soundwall and be of a type that will cover the soundwall surface within two years.
 - (2) Graffiti Removal. The removal of all graffiti from the walls, fences, pavement or buildings within seventy-two hours of its appearance on the property may be required.
 - (3) Exterior Lighting. Exterior lighting containing high pressure sodium or equivalent type, with an illumination intensity of between one and four foot-candles, may be required. The lighting may be required to be lit during all hours of darkness. Any required

lighting must be directed and shielded so as not to glare onto adjoining residential properties and must have a housing to protect against breakage. Any required lighting must illuminate the adjacent public sidewalks and all parking lots under the business establishment's control in a manner that allows law enforcement personnel to identify persons standing in those areas. Any broken or burned out lights may be required to be replaced within seventy-two hours.

- (4) **Trash Receptacles.** Permanent, non-flammable trash receptacles, sixty gallons or less in size, may be required to be located at convenient locations, appropriately screened from view, outside the establishment and in the establishment's parking area (if any). The operators of the business may be required to remove on a daily basis, or more frequently if needed to maintain a litter-free environment, all trash from these receptacles and from the sidewalk adjacent to the establishment. The operators of the business also may be required to remove, at least three times per week, all trash originating from its establishment deposited on public property within four hundred feet of any boundary of its premises. Security may also be required in a manner similar to that required under Section 88-16.010 (take-out food establishment). All trash receptacles of any size may be required to be appropriately screened from view.
- (5) **Pay Telephones.** Pay telephones on the site of the establishment may either be: (a) prohibited; or (b) required to be of the type that only allow outgoing calls and be located in a visible and well-lighted location.
- (6) **Interior View.** In establishments with glass storefronts, an unobstructed interior view from the street of the cash register area may be required and no more than thirty-three percent of the square footage of the windows and transparent doors of the premises may be allowed to bear advertising or signs of any sort. All advertising, signage and products may be required to be placed and maintained to ensure that law enforcement personnel have a clear and unobstructed view of the establishment's interior.
- (7) **Program.** A "complaint response-community relations" program established and maintained by the deemed approved activity may be required. The program may include the following:
 - (a) Posting at the entry of the establishment and providing to any requesting individual the telephone number for the area commander of the local law enforcement substation;
 - (b) Coordinating with the local law enforcement agency to monitor community complaints about the establishment's activities;
 - (c) Having a representative of the establishment meet with neighbors or neighborhood association on a regular basis and at their request, attempt to resolve any neighborhood complaints regarding the establishment.
- (8) **Activities.** If appropriate, the following activities may be prohibited on the premises: pool or billiard tables, football or pinball games, arcade style video or electronic games, or coin operated amusements devices.
- (9) **Prohibited Products.** To discourage nuisance activities, an off-sale alcohol outlet may be prohibited from selling one or more of the following products:
 - (a) Wine or distilled spirits in containers of less than seven hundred fifty milliliters;
 - (b) Malt beverage products with alcohol content greater than five and one-half percent by volume;
 - (c) Wine with an alcoholic content greater than fourteen percent by volume unless in corked bottles and aged at least two years;

- (d) Single containers of beer or malt liquor;
 - (e) Containers of beer or malt liquor not in their original factory packages of six-packs or greater;
 - (f) Containers of beer or malt liquor larger than thirty-nine ounces;
 - (g) Distilled spirits in bottles or containers smaller than three hundred seventy-five milliliters;
 - (h) Cooler products, either wine- or malt-beverage-based, in less than four-pack quantities.
- (10) Chilled Alcoholic Beverages. An off-sale alcohol outlet may be prohibited from maintaining refrigerated or otherwise chilled alcoholic beverages on the premises.
- (11) Hours of Operation. In an off-sale alcohol outlet, the sale of alcoholic beverages may be restricted to certain hours of each day of the week unless limited further by the state of California Department of Alcoholic Beverage Control.
- (12) Cups. In off-sale alcohol outlets, the sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging may be prohibited.
- (13) Signs. The following signs may be required to be prominently posted in a readily visible manner in English, Spanish, and the predominant language of the patrons:
- (a) "California State Law prohibits the sale of alcoholic beverages to persons under twenty-one years of age";
 - (b) "No Loitering or Public Drinking"; and
 - (c) "It is illegal to possess an open container of alcohol in the vicinity of this establishment".
- (14) Presentation of Documents. A copy of the conditions of approval and the California Department of Alcoholic Beverage Control license may be required to be kept on the premises and presented to any law enforcement officer or authorized county official upon request.
- (15) Mitigating Alcohol-Related Problems. The establishment may be required to operate in a manner appropriate with mitigating alcohol-related problems that negatively impact those individuals living or working in the neighborhood, including but not limited to: sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, loud noise, and litter.
- (16) Signage. The total surface of signage pertaining to or referencing alcoholic sales or beverages that is visible from the public right-of-way may be required to not exceed six hundred thirty square inches.
- (17) Employee Training. All sales clerks in on-sale alcohol outlets and off-sale alcohol outlets may be required, within ninety days of the beginning of employment, to complete an approved course in "responsible beverage service training". The establishment may be required to provide evidence of the employee's completion of this training to county authorities within ten days following completion of training.
- (18) Drug Paraphernalia. An off-sale alcohol outlet may be prohibited from selling drug paraphernalia products as defined in Health and Safety Code Sections 11014.5 and 11364.5. "Drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,

concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act (commencing with California Health and Safety Code Section 11000).

- (19) Loitering. The establishment's operators or employees may be required to discourage loiterers and to ask persons loitering longer than fifteen minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.
- (20) Security Cameras. At least two twenty-four hour time-lapse security cameras may be required to be installed and properly maintained on the exterior of the building at locations recommended by the sheriff's department. All criminal and suspicious activities recorded on this surveillance equipment must be reported to local law enforcement. To the extent allowed by law, the establishment's operators may be required to provide any tapes or other recording media from the security cameras to the sheriff.
- (21) Prohibited Vegetation. No exterior vegetation may be planted or maintained that could be used as a hiding place for persons on the premises. Exterior vegetation may be planted and maintained in a manner that minimizes its use as a hiding place.

(Ord. 2002-33 § 2).

82-38.816 Procedure for consideration of violations to conditions of approval.

If the county receives a complaint from the public, sheriff, or any other interested party that a condition of approval is being violated, the administrative hearing officer may hold a public hearing to receive testimony and determine whether violations of any conditions of approval have occurred. Notification of the public hearing will be in accordance with Section 82-38.1004. The administrative hearing officer may amend the existing conditions of approval based upon the evidence presented or revoke the deemed approved activity's deemed approved status. The determination of the administrative hearing officer becomes final thirty calendar days after the date of decision unless appealed to the board of supervisors in accordance with Section 82-38.1002.

(Ord. 2002-33 § 2).

Article 82-38.10. Appeals, Notice, Fees, and Penalties

82-38.1002 Appeal to board of supervisors.

- (a) Within thirty calendar days after a decision by the administrative hearing officer, the business owner or property owner if not the same, the sheriff, community members, or any other interested party may appeal to the board of supervisors as set forth in Chapter 14-4. Upon receipt of the appeal and the required appeal fee, the clerk of the board will set the date for consideration of the appeal as set forth in Section 14-4.006.
- (b) In considering an appeal of a determination that a substantial change in the mode or character of operation of the premises has occurred, the board of supervisors may uphold or reverse the determination of the administrative hearing officer.
- (c) In considering an appeal after conditions of approval on a deemed approved activity are imposed or modified or after deemed approved status is revoked, the board of supervisors must determine whether the established use conforms to the applicable deemed approved performance standards or conditions of approval. The board of supervisors may continue or revoke a deemed approved status, or the board of supervisors may modify the conditions of

approval or impose additional reasonable conditions of approval as the board judges are necessary to ensure conformity with deemed approved performance standards.

- (d) A decision of the board of supervisors is final as set forth in Section 14-4.008.

(Ord. 2002-33 § 2).

82-38.1004 Notification of public hearing.

The administrative hearing officer or his or her designee must notify the owner of the alcoholic beverage sales commercial activity, and the property owner if not the same, of the date, time and place of the public hearing. Notice must be sent via certified return receipt mail. The public hearing must be noticed by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the unincorporated area of the county within three hundred feet of the subject property in accordance with Section 26-2.2004. All notices must be given not less than ten days before the hearing date. Notification fees will be in accordance with Section 82-38.1006 and paid for by the owner of the deemed approved activity.

(Ord. 2002-33 § 2).

82-38.1006 Fee schedule.

Fees and fee regulations, including fees for the review, notification, appeal, and reinspection of deemed approved activities, will be in accordance with a fee schedule established by the board of supervisors.

(Ord. 2002-33 § 2).

82-38.1008 Violations and penalties.

- (a) Violations of the terms or any of the conditions of approval of a land use permit issued under this article may result in revocation of the permit in accordance with Article 26-2.20, as well as any other enforcement remedy allowed by law.
- (b) If the deemed approved status of a deemed approved activity is revoked, the property owner or business owner is subject to:
- (1) criminal enforcement action in accordance with Chapter 14-8, including arrest by citation;
 - (2) Civil enforcement in accordance with Chapter 14-6; and
 - (3) In the case of a property owner, nuisance abatement in accordance with Chapter 14-6.
- (c) Liability for Expenses. In addition to the punishment provided by law, a violator is liable for costs, expenses, and disbursements paid or incurred by the county or any of its contractors in the correction and abatement of the violation. Re-inspection fees to ascertain compliance with previously noticed or cited violations may be charged against the owner of the deemed approved activity in an amount set by the board of supervisors. The county administrator or his or her designee must mail the property owner or business owner of the affected premises a written notice setting forth the itemized cost of chargeable services and requesting payment of those costs. If the bill is not paid in the time stated in the notice, the charges will be referred to the county office of revenue collection, or if the charges are against the property owner, the charges will be placed as a lien against the property in accordance with Chapter 14-6.

(Ord. 2002-33 § 2).