ATTACHMENT 1

Harbor View Inn

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SANTA BARBARA, CA

June 1, 2010

Mayor and City Council
City of Santa Barbara
City Hall
De la Guerra Plaza
Santa Barbara, California 93101

Re: Appeal of the decision of the Parks and Recreation Commission to allow a music festival at West Beach in September, 2010.

Dear Mayor and Council:

1. Name of body whose decision is being appealed, and date of meeting at which decision was made:

This is an appeal from the Parks and Recreation Commission's hearing on May 19, 2010, granting a permit to Twiin Productions for a 3-day musical event to be held on West Beach on September 24, 25 and 26, 2010.

2. Description of decision being appealed:

The decision of the Commission upholding the applicant's request for a permit with a majority approving the requested permit, 3 to 2, limiting attendance each day to 8500, with hours of music operation on Friday from 4 p.m. to 10 p.m. (6 hours), Saturday from 12 Noon to 10 p.m. (10 hours) and Sunday from 12 Noon to 7 p.m. (7 hours). The Commission also conditioned the permit upon Twiin Productions' hiring a sound consultant, but imposed no directions.

3. Grounds claimed for the appeal and identifying in particular all significant issues, facts and affected parties:

A. The Parks and Recreation Commission failed to deal with the numerous serious issues detailed in the written recommendation for denial of the West Beach Music Festival made by Nancy Rapp and her staff, as well as the issues raised in the oral testimony and videos presented by Police Chief Sanchez and Sgt. Riley Harwood, and John Bridley of the Waterfront Department, as well as each and every one of the Commissioners. They simply left the problem to you. An honest appraisal of what Parks and Recreations' staff was telling everybody, and everybody admitted, was that they do not have the policies and regulations in place for an event of this size and hours at this venue. They said they needed time to develop them, especially since there were two other requests for similar activities.

B. Background.

Many successful events occur every year on West Beach that bring business to Santa Barbara, like this festival would. For comparison purposes, we have had the West Beach volleyball tournaments, drawing between 500 to 3,000 people for 4 days with hours of operation from 8 a.m. to 6 p.m. We have had Harbor fish festivals, Christmas Light Boat Festivals, and Fourth of July fireworks activities. All of these activities are essentially family oriented.

The Music Festival has three years of experience, starting as a 1-day family affair in 2007 with attendance of 800 to 1,000. No problems.

In 2008, it became a 3-day event with longer hours and greater attendance. There were considerable problems, which we complained of in writing to the Parks and Recreation Department and to the promoters, with promises from the promoters that the problems would be dealt with in the future.

In 2009, it again was a 3-day event, ending on Friday, Saturday and Sunday at 10 p.m., even though page 3 of the Parks and Recreation Commission Report indicates it ended at 8 p.m. on Sunday. The City has never had so many complaints from adjacent property owners and people as far away as Montecito for excessive noise, damage to property and an out-of-control drunken mob as described by the Police

Department both in the newspapers and orally. There was not only damage to private property, but to public property, and admittedly fraudulent parking permits. Requests made by the Parks and Recreation staff to turn down the noise volume were repeatedly ignored.

There were problems relating to insufficient security for crowd control, reports of excessive alcohol and drug use, and ineffective alcohol management within the event, with inadequate control of patrons going in and out of the Beer Garden, apparently generating underage alcohol use. The failure to comply with the City's terms and conditions of the permit are outlined in detail in the Staff's recommendations.

None of our traditional events at West Beach has caused such an extraordinary number of violations and complaints.

The Parks and Recreation Department have set forth, in writing, indisputable details on the issues and reasons why they denied a permit to Twiin Productions for the 2010 Music Festival. There was also oral testimony by the Chief of Police, Sgt. Harwood, Parks and Recreation personnel, and affected property owners supporting the Parks Department recommendation.

On February 9, 2010, Twiin Productions was told by staff that the City would not be permitting any large scale music events until City policies related to such events could be evaluated and updated for an event of this scale.

I cannot improve on the factual narration in that written recommendation dated March 19, 2010, and urge you to read it. A copy of it is attached as EXHIBIT A. Attached as EXHIBIT B is a letter written by the undersigned to Parks and Recreation dated February 10, 2010, setting forth complaints of adjacent property owners.

The City of Santa Barbara is the owner of the subject property in a proprietary sense-a landlord-and thus has the power and the legal responsibility to deal with these issues since it is the primary permitting agency in a governmental stature. The State Alcohol Beverage Control agency issues

the alcohol use permit, but only if the City of Santa Barbara, through its Police Department, approves the use of alcohol with terms and conditions in addition to all the permit conditions in place.

C. The issues that the Parks and Recreation Commission failed to address that must be addressed, and are the reasons for this appeal, are:

(1) Admittedly there are no written policies in place for events of this type, size and scale at West Beach.
(2) Insufficient security for crowd control.
(3) Appropriate control of excessive alcohol and drug use, which admittedly was ineffective alcohol management within this event in 2009.
(4) Repeated failures and refusals to meet the City's permit terms and conditions.
(5) No adequate policies, regulations and procedures to deal with excessive noise created by music over three days and long hours.
(6) No security deposit procedures are in place at this time to pay for anticipated Santa Barbara Police costs for this event or for any staff costs involved at this event.
(7) No procedures and policies in place at this time to process and pay expeditiously both the City of Santa Barbara and adjacent property owners' claims for physical damage to their property, like shrubbery, signs, broken windows, cost of additional security to protect their property and parking, and to compensate for patrons who move out because of excessive noise.
(8) There is no adequate policy in effect to determine adequate compensation to the City for renting on an exclusive basis an area of West Beach for 10 days for profit-type events.
(9) Input from the Waterfront Department regarding parking availability at the waterfront lots. There is a lack of policies and procedures on how to deal with significantly increased traffic into this area for a 3-day weekend as well as the exodus from this area at night, which could include many who are drunk.

(10) There is a significant issue of credibility to anything these promoters might say or promise unless it is backed up by policies and procedures that have sanctions and teeth that are meaningful. Mentioned by the Waterfront Department were the fraudulent, forged parking permits that Twiin Productions admitted was done by their office. They refused to reduce sound levels when asked to do so by City staff. They failed to control the ins and outs of the Beer Garden, allowing obvious excessive underage drinking. One incident of injury to a police officer or a member of the public will involve claims that could easily run into the millions of dollars, which the City, as the property owner, will no doubt be involved in. What should be a security deposit for reasonable costs and damages? The Council may wish to examine a real, foreseeable incident of injury or death where the awards could be in the millions.

(11) The West Beach area is immediately surrounded by many residences and businesses. The onerous, offensive, loud music and profanity for so many hours over a 3-day period raises the question of at what point is this noise an illegal trespass to the people and properties surrounding this event. The Council may want to examine and protect the legal rights that do exist for the individuals inhabiting a home, an apartment, a motel, or a boat, or are walking by.

(12) There are two other requests for similar activities at West Beach with no policies or procedures in place. If you allow one, you must allow the others.

I hereby request that the Council consider these major issues that were not addressed by the Commission, which I most respectfully suggest was their role and function. Please reverse the recommendation of the Parks and Recreation Commission and give staff sufficient time to create appropriate policies and procedures that involve very complex technical and public safety issues encompassing many departments.

As Chair BeeBe Longstreet said to Twiin Productions, " Congratulations. You have become such a success that you have outgrown this venue."

Incidentally, the Santa Barbara County Bowl has a capacity of approximately 4,500 and has traditionally been the venue for world-famous concert givers for as long as I can remember. Crowd control, parking, restroom facilities, noise control and containment, and alcohol control have all worked very well at this venue for a number of years. The same cannot be said of the West Beach area.

I would like to be an active, helpful participant in the process of developing those policies and rules that will, in the long run, benefit not only future music festivals, the surrounding West Beach residents and businesses, but also the entire community.

Very truly yours,

THE HARBOR VIEW INN, APPELLANT

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Enclosures

Cc: Mayor and Council Members
Nancy Rapp, Parks and Recreation
James Armstrong, City Administrator