



## CITY OF SANTA BARBARA

### PARK AND RECREATION COMMISSION REPORT

**AGENDA DATE:** May 19, 2010

**TO:** Park and Recreation Commission

**FROM:** Administration Division, Parks and Recreation Department

**SUBJECT:** Twiin Productions Appeal of Parks and Recreation Department Denial of a Permit for the 2010 West Beach Music and Arts Festival

**RECOMMENDATION:** That the Commission deny the appeal of Twiin Productions, and uphold the decision of the Parks and Recreation Department to deny a park permit for the 2010 West Beach Music and Arts Festival.

#### **EXECUTIVE SUMMARY:**

The West Beach Music and Arts Festival (Festival), produced by Twiin Productions, is a 3-day music event that has been held on West Beach over each of the last 3 years. The 2009 event had the largest attendance by far, drawing 8,000 -13,000 per day, and was marred by a number of problems which staff believes were related to poor event management. The City received an extraordinary number of complaints, particularly noise complaints, from residents and businesses in the West Beach and Waterfront areas, and from as far away as Montecito, Summerland and Carpinteria. Other problems related to Twiin Productions performance included insufficient security for crowd control, reports of excessive alcohol and drug use and ineffective alcohol management within the event, and a failure to meet City permit terms and conditions.

In reviewing the event, staff from Parks and Recreation, Police, Waterfront, Public Works and Fire departments, determined that existing policies and practices for permitting events within City parks and beaches had not been written for an event of this type, size and scale, and as a result, were not sufficient. The City notified Twiin Productions that until a review and possible update of City policies, regulations and procedures could take place, no large scale music events would be permitted on City property, and that their application for a 2010 event would not be processed. Twiin Productions is appealing the denial of their 2010 event permit.

## **DISCUSSION:**

### **Background**

On September 18-20, 2009, the West Beach Music and Arts Festival organized by Twiin Productions took place on West Beach. With ticket sales topping 25,000 and the event drawing 8,000 – 13,000 people a day, the 2009 event was by far the largest and most-attended event in the three year history of the festival. Unfortunately, the City received an extraordinary number of complaints from the public about noise, excessive alcohol consumption and illegal drug use, and vandalism and litter in the surrounding neighborhoods. The majority of complaints were related to noise, with complaints coming from as far away as Montecito, Summerland and Carpinteria. The number of complaints generated by the 2009 Festival far exceeded any other event held in a City venue in recent history; and the event itself was much larger than events typically held in City park or beach venues in terms of people in one venue at one time.

In considering the return of the Festival to West Beach in 2010, staff from various City departments noted Twiin Productions failure to abide by terms and conditions of the park permit and raised concerns about their ability to appropriately manage the 2009 event. Additionally staff realized that the City does not have sufficient policies and permit requirements in place to manage an event of this scale, and questioned whether West Beach was an appropriate venue for an event of this type, size and scale. On February 9, 2010, Twiin Productions was notified 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. Twiin Productions is appealing that decision.

### **Permitting Process for Large Special Events in City Parks/Beaches**

Each year the Parks and Recreation Department permits 80 – 100 community special events in City parks and beaches. The permit process involves months of pre-event meetings and discussions with event coordinators and staff from the Parks and Recreation, Police, Fire, Waterfront and Public Works departments. The Special Event Application, an extensive document, provides information on rules, regulations and requirements for conducting the event. Applications are submitted 6 or more months in advance, reflecting the time involved in reviewing and preparing for the event.

The park permit includes very specific terms and conditions for how, when, and where the event will be conducted. Depending on the type of event, a number of other permits may be required as part of the Parks Permit, such as electrical and building permits from the City Building Official, health permits from the County Health Department for food preparation and sales, alcohol sales permits from the state Alcohol Beverage Control (ABC), Coastal Development Exclusion from the Planning Division of the City Community Development, vending permit from the City Finance Department, and a fire permit from the City Fire Department. Examples of other City permit requirements include providing the City a detailed site map for approval, SBPD Officer Request, Street Closure/Parking

Restriction Waiver/No Parking permits, certificate of insurance, security guard services, trash/recycling/portable toilets, sound monitor, and neighborhood notification. As most events are returning events, extensive debriefs are conducted following the event, reviewing what worked well and what did not, with recommendations for new permit requirements for the following year.

The majority (60%) of the special events permitted in City parks and beaches draw fewer than 300 attendees per day. In 2009/2010, only 5 events drew greater than 5,000 attendees per day:

Earth Day (Alameda Park West, East)	15,000
Summer Solstice (Alameda Park, West, East)	15,000
Fiesta Mercado (Plaza de la Guerra)	10,000
Cinco de Mayo (Plaza de la Guerra)	3,000 – 7,000
West Beach Music and Arts Festival (West Beach)	8,000 – 13,000

No other event has the attendance of the West Beach Music and Arts Festival at one time in one venue.

### 2009 West Beach Music and Arts Festival

This was the third year of the Festival, and the event has grown in duration and size each year.

	2007	2008	2009
Event Days/Hours	Saturday 12n – 8pm	Friday 3 – 10pm Saturday 12n – 10pm Sunday 11 – 8pm	Friday 3 – 10pm Saturday 12:30 – 10pm Sunday 12:30 – 8pm
Attendance	800 – 1,000	3,000 9,000 8,000	8,000 9,000 – 10,000 13,000
Total Days on Site (set up, event and break down)	6	21 (includes 10 days beyond permit, which resulted in a \$3000 fine)	10

For comparison purposes, the 2010 AVP Volleyball Tournament, also held on West Beach, drew 500 to 3,000 people each of the 4 days, 8am - 6pm, with 11 total days on site.

### Public Complaints Regarding 2009 Festival

Beginning Friday, September 18<sup>th</sup> and continuing through Sunday, and following the event, an extraordinary number of complaints were received by the Police Department, Mayor and Councilmembers, Parks and Recreation Department, the City Administrator's Office, Waterfront Department, letters to media, and others. Most complaints were related to noise (sound level and booming bass), some from as far away as the Riviera, Montecito, Summerland and Carpinteria. Over the next few months, additional complaints were

received from residents in the West Beach and Shoreline neighborhoods, the Stearns Wharf Merchants Association, Greater Santa Barbara Hotel and Lodging Association and West Beach hoteliers. In addition to noise, the complaints cited impacts to neighborhoods, litter, vandalism, excessive alcohol and drug use, alcohol related negative behaviors, and alarm over a 2010 event. There were many criticisms of the negative impacts to residents and the small amount of revenue to the City. City staff could not recall any other event generating this level of complaints.

#### Police Calls for Service / Activity

Statistics provided by the Police Department show that:

- At its peak SBPD Dispatch was receiving a noise complaint every few minutes. Due to the volume, calls for service were not logged.
- SBPD Beat 2, consisting of the entire waterfront area, produced 257 calls for service and officer initiated activities from September 18th – September 20th. In comparison, the same geographic area produced 148 calls during the previous Friday – Sunday, a 74% increase.
- Beyond planned staffing for the event, on Sunday 17 Police Officers and 1 Harbor Patrol officer were called in for crowd management, as well as a dispatcher and CSI Technician
- Citations/Arrests:
  - Felony Arrests: 2
  - Misdemeanor Arrest: 1
  - Health & Safety Code Citations: 9
  - Municipal Code Citations: 26
  - Penal Code Citations: 2
  - Business and Professions Code Citations: 28
  - Vehicle Code Citations: 6
  - Parking Citations: 263

The felony offenses consisted of an arrest for possession of a dangerous drug, ecstasy, and an arrest for violation of parole. The misdemeanor arrest resulted from a sexual battery involving a 17-year old female victim who reported the incident to security. The Health & Safety Code citations were for possession of marijuana, the Municipal Code citations were for possession or public consumption of alcohol, and the Penal Code citations were for littering or urinating in public. The Business & Professions Code citations consisted of two cites related to security guard certification and 26 cites related to minors in possession of alcohol or false ID. The Vehicle Code citations consisted of four traffic cites and two cites for fraudulent use of ID cards or driver licenses. Nearly all of the parking citations were issued by Parking Enforcement Officers assigned to patrol the area around the event; a small number were issued by Police Officers working the event.

#### De-Brief Following the Event

On October 9, 2009, a debrief meeting was held with Twiin Productions and staff from the Public Works, Police, Fire, Waterfront and Parks and Recreation departments. The

comprehensive review addressed aspects of the event that worked well, and what did not. The greatest concerns communicated to Twiin Productions were those related to failure to abide by permit terms and conditions; unacceptable management of amplified music; inadequate security for crowd control and unacceptable alcohol management (which resulted in an increased and unplanned need for police resources); distribution and fraudulent counterfeiting of Waterfront Parking VIP permits by Twiin Productions staff and their vendors; and unacceptable neighborhood impacts. The Parks and Recreation Director informed Twiin Productions that these issues would likely result in policy changes by the City which would affect future events, and that it was also possible that the event would not be permitted in the future.

### **Denial of 2010 Permit and Appeal Request**

In the months following the Festival, the Parks and Recreation Department received requests to permit 2 similar music events in the Waterfront area. Upon further review and discussion, in concurrence with the City Administrator, the Parks and Recreation Director notified Twiin Productions on February 9, 2010, that the City would not be permitting any large scale music events until an evaluation of City policies related to large scale music events and amplified sound was completed.

On March 19, 2010, the Department received a Special Events Application from Twiin Productions for a West Beach Music and Arts Festival to be held on September 24-26, 2010. On March 22, 2010, Twiin Productions submitted an appeal to the Department's decision to suspend the processing of permits for large scale music events.

On April 27, 2010, Twiin Productions submitted a request to City Council asking Council to permit the Festival's 2010 special event application. The request specifically cited the Parks and Recreation Department "General Policy Pertaining to use of Parks, Recreation Facilities and Equipment" (as authorized and approved by the City Council) pursuant to SBMC 15.05.020 which provides that denial of a permit for facility, park or equipment use can be appealed to the Park and Recreation Commission, and subsequently to City Council. Subsequently, the Parks and Recreation Department notified Twiin Productions that an appeal hearing was set for May 19, 2010 during a Special Meeting of the Parks and Recreation Commission.

### **Unacceptable Conditions Associated with the 2009 Event**

Staff with Parks and Recreation, Police, Fire, Waterfront and Public Works departments observed the following related to the operation of the 2009 Festival:

1. **SOUND MANAGEMENT:** Twiin Productions failed to abide by permit terms and conditions related to sound level management. The report provided by the sound company contracted by Twiin Productions verified that decibel levels exceeded maximum allowable levels all three days. Twiin Productions failed to supervise the sound company to insure sound within allowable limits. Once apprised by staff of

inappropriate sound levels and public complaints, Twiin Productions failed to manage the sound to insure music was kept at appropriate levels.

- a. Staff informed Twiin Productions Operations Manager and later Jeremy Pemberton that the volume and bass needed to be lowered to acceptable levels on Friday, both were lowered at some point and then raised again prior to end of the event. Police intervention was needed to end music on time Friday.
  - b. Saturday late afternoon staff informed Jeremy Pemberton of the significant number of public noise complaints, and warned that if sound was not managed within appropriate levels it could affect continuance of the event in the future.
  - c. Sunday afternoon staff directed the Operations Manager once again about lowering sound and bass levels to acceptable levels.
2. **CURFEW:** Twiin Productions failed to abide by permit terms and conditions as to music curfew. Although the amount of time over curfew was minimal (2 minutes), it necessitated staff having to remind Twiin Productions staff to take action to end the music by curfew. In 2008, Twiin Productions failed to manage their performance schedule such that the final lead act did not have sufficient performance time on both Saturday and Sunday. Police made the determination that for public safety reasons (crowd control of unhappy attendees) the curfew would be allowed to extend by 45 minutes one night and 30 minutes another night.
3. **SECURITY SERVICES:** Twiin Productions failed to plan and provide appropriately certified and licensed security services; failure of hired personnel to perform competently; failure to effectively manage the multiple providers hired for security. The permit terms and conditions require that all security personnel are appropriately licensed and certified by the State Bureau of Security and Investigative Services. The Police Department determines the number of required police and security personnel, and where those resources will be positioned within the venue.

Through the planning process Twiin Productions had informed the City that they had formed their own security personnel business to provide security services for the Festival and other events they manage. Approximately two weeks prior to the event the Police Department was informed by the State Bureau of Security and Investigative Services that Twiin Productions' in-house security company was not licensed to provide security for the Festival event. The Police Department informed Twiin Productions that the company was not appropriately licensed. Three days before the event, Twiin Productions provided the Police Department with an alternate vendor, who was also determined to be unlicensed. This was repeated the following day. On Thursday, the day before the event, Twiin Productions contracted with a licensed security vendor.

During the event the State Bureau of Security and Investigative Services checked security personnel. One security guard was cited for not being appropriately licensed, and one Twiin Productions event staff was cited for doing work that required a guard certification. The Police Department notes that the poor management of security

services by Twiin Productions and the failure of security personnel to perform competently contributed to unauthorized alterations to the beer gardens, ineffective security at the entrance/exit and perimeter of the beer gardens, and reports of excessive marijuana and alcohol use, and underage drinking.

4. **ILLEGAL MARIJUANA USE:** There were many reports of pervasive illegal marijuana use within the venue. This concern was discussed in pre-planning meetings, with an expectation that the event organizer has a role in helping to reduce instances of marijuana use. Following the 2008 event, to this end, Twiin Productions had agreed to not allow drug paraphernalia to be sold by Festival vendors in future events. The 2009 event saw a marked increase in marijuana use over previous years' events. Police cite ineffective planning related to crowd control, estimated attendance, Twiin Productions' ineffective security performance, and insufficient police resources in place within the venue to address the problem.
5. **ALCOHOL MANAGEMENT:** Twiin Productions failed to abide by permit terms and conditions and provide appropriate alcohol management as required by the Alcohol Beverage Control and City Parks permits (also cited in 2007 and 2008); failed to supervise the beer garden in a manner necessary to prevent underage attendees from having access to the beer garden; failed to supervise servers in a manner necessary to prevent service to persons who were clearly intoxicated; and made unauthorized alterations to the beer gardens, including not maintaining required double fencing standards and enlarging the entrance to a degree which precluded effective supervision of the beer garden (i.e., overcrowding, screening underage attendees).
6. **COUNTERFEIT PARKING PERMITS:** Twiin Productions staff and their vendors produced and distributed fraudulent counterfeit Waterfront Parking VIP permits. Waterfront sold Twiin Productions 10 VIP parking permits for the event preparation and access to the event. During the event it was discovered that counterfeited permits were being duplicated and used by event organizers and vendors. Waterfront staff confiscated approximately 26 counterfeited permits but believe there were many more made and used for access to the event. An investigation by the Department determined that the counterfeited permits were widely distributed and used during the event.
7. **USE OF PROFANITY:** There were many public complaints of excessive profanity by emcees and entertainers, inappropriate for a family-friendly venue and clearly heard outside of the venue by visitors and residents, including children.
8. **NEIGHBORHOOD IMPACTS:** Inadequate planning related to estimated attendance, crowd management, security and police resources resulted in complaints by Waterfront, West Beach and Shoreline Park neighborhoods related to parking, alcohol and marijuana related behaviors, public urination, vandalism and trash.

### **Additional Concerns Related to Event Management**

The past performance of Twiin Productions calls into question whether the applicant can abide by the terms and conditions of their City special event and other permits. Over the past three years, despite numerous, lengthy planning meetings and discussions with staff, Twiin Productions fails to comply with event permitting conditions and follow through on commitments for how the event will use City facilities and privileges. This has created unanticipated negative impacts, frustration and additional work by City staff.

Twiin Productions says that they have responded to problems by making changes to the following year event. A promise to improve in the future is not sufficient for most of the problems noted. Staff believes that many of the issues are things that should have anticipated by Twiin Productions or addressed through appropriate on-site management of the event. For example, although City staff has emphasized over the years how important it is for the event to have the support of the West Beach and Waterfront area businesses, hotels and residents, complaints reached an all time high in 2009.

Another critical area of concern is the lack of sufficient planning to properly manage an event of this size and scale. In talking with management from the Santa Barbara County Bowl and other venues, a critical piece of working proactively to effectively manage a large scale music event is the experience and knowledge the concert promoter brings to the planning process. Venues rely on the concert promoter to contribute how different music acts will affect crowd size and crowd control, age and other demographics on potential audience, anticipated attendee behaviors which may be problematic, anticipated concerns related to sound management, etc.

All of these areas have been problems for the Police and Parks and Recreation department in working with Twiin Production to plan their events. For example, one of the critical differences between the 2008 and 2009 events was the band line up, in terms of type of music and the characteristics of who is drawn to attend that type of music or a particular band. This information should have been known by Twiin Productions and incorporated into discussions with the Police Department related to anticipated attendance, security services, police resources, etc. The County Bowl routinely contacts the Police Department prior to concert events to let them know what to expect based on the entertainment booked for the event. The type of musical bands featured in the 2009 event was a significant contributor to the sound management problems.

Another critical performance area is the lack of appropriate on-site management during the events. In comparing the number of incidents discussed above related to Security, Alcohol Management, and Sound Management, the Police Department notes that the level of incidents associated with the 2009 Festival is an anomaly compared to what is normally encountered at other events. In general, with more successful events, event organizers are more involved in the oversight and management of security, the beer garden and alcohol management which prevent many of the problems.

Concerns have also been raised about Twiin Productions business practices and credibility. The check used as payment to the Waterfront Department to reimburse for the counterfeited Waterfront parking permits was returned for non-sufficient funds in the account. Eventually, a cashier check was required and submitted to cover the payment. Late payments for Police services have been received as late as 120 days or more. Each year, staff has been contacted by vendors for the event about non-payment of their bills by Twiin Productions. (This has never occurred with other events the City has worked with.)

### **Review of City Policies, Regulations and Practices Related to Large Special Events**

The 2009 West Beach Music and Arts Festival brought to attention the need to revisit many of the City's policies, regulations and practices related to how the City permits and manages large special events held on City property. The following policy areas have been identified:

- Use and management of amplified sound, including:
  - Municipal Code Chapter 9.16 as it relates to events on City property
  - Study of sound management options and recommendations for various City venues
  - Sound monitoring policies and requirements
  - Conditions related to venue locations, hours, number of days, etc.
- Security deposits or bond requirements to cover unforeseen costs, such as damage to City property, additional police services, and administrative fines.
- Criteria requirements for contracted services such as security, sound, etc.
- Administrative fines for failure to meet permit terms and conditions (i.e., sound management, exceeding event curfew, alcohol management, etc.)
- Defined plans to mitigate neighborhood impacts (traffic, parking, trash, police services outside event venue)
- On-site staff requirements and cost-recovery (Police, Parks and Recreation)
- Requirements for third party contract language related to profanity, sound management, security services, etc.
- Limitations on events based on ability of Police Department to provide appropriate levels of support
- Fees, including full cost recovery for City services to support the event (Parks and Recreation, Police, etc.)

Also identified is the need to have a comprehensive review of policy documents which govern how, when and where events are conducted on City property. Some of these include:

- Parks and Recreation Special Events Application
- Municipal Code 15.05.020 Policy Pertaining to the Use of Parks, Beaches and Recreation Facilities, and the General Policy Pertaining to use of Parks, Recreation Facilities and Equipment
- Policy Pertaining to Special Events Held in the City's Waterfront, Beaches and Beach Park Areas

Another area of policy discussion is whether criteria should be established for events held in various City park, beach, or other public areas based on type of event, size, duration, likely neighborhood impacts, etc. For example, questions have been raised by West Beach hoteliers, surrounding neighborhood and waterfront businesses and residents, the Waterfront Department and others about whether West Beach is an appropriate venue for this type of event, or an event of its size and scale. In particular:

- Many commented that 3 days and 3 nights of loud music emanating from the West Beach venue was excessive.
- The Waterfront Department notes the Festival is a large, multi-day, for-profit, non-ocean dependent event which overly impacts ocean dependent-ocean related activities; this event which could be held elsewhere. Virtually, no other ocean related/dependant activities can take place in the West Beach-launch ramp vicinity during that timeframe.
- Size of the Festival footprint means that most if not all of West Beach is inaccessible to the general public, youth sailing organizations, outrigger canoe clubs, contractors, public safety officials, etc.
- Parking impacts the Festival are very large and negatively affect parking access for harbor launch ramp users, slipholders, boaters, wharf/harbor tenants and their customers, and surrounding neighborhoods.

## **RECOMMENDATIONS**

The Parks and Recreation, Police, Fire, and Waterfront departments strongly recommend that the Commission support the denial of a park permit for a 2010 West Beach Music Festival, or any other large scale music events, until appropriate changes are made to City policies, regulations, and procedures to ensure safe, community friendly, well-managed events. If the Parks and Recreation Commission upholds the Parks and Recreation Department denial of a park permit for the 2010 West Beach Music and Arts Festival, that decision is appealable to the City Council within 10 days.

### Attachments:

1. 2009 West Beach Music and Arts Festival Special Event Application
2. 2009 West Beach Music and Arts Festival Parks and Recreation Park Permit
3. 2009 West Beach Music and Arts Festival De-Brief Notes
4. Santa Barbara Police Department letter to California Department of Alcoholic Beverage Control, Twiin Productions ABC Event / Catering Request for September 18-20, 2009, dated August 31, 2009
5. February 9, 2010 Parks and Recreation Letter to Twiin Productions regarding suspension of large scale music events
6. 2010 West Beach Music and Arts Festival Special Event Application, received March 19, 2010
7. March 22, 2010 Letter from Twiin Productions to Nancy Rapp appealing denial of 2010 event permit
8. March 30, 2010 Letter from Nancy Rapp to Twiin Productions denying appeal

9. April 27, 2010 Letter from Twiin Productions to City Council requesting a permit for a 2010 Festival
10. Various public comments about 2009 West Beach Music and Arts Festival

**SUBMITTED BY:** Nancy L. Rapp, Parks and Recreation Director  
Camerino Sanchez, Police Chief  
John Bridley, Waterfront Director  
Andy DiMizio, Fire Chief