

coverstory

WHAT'S ALL THE NOISE ABOUT THE NOISE ORDINANCE?

City Council forges a compromise, but is anyone really happy?

By Melanie Anderson

The task of updating the City's noise ordinance presented challenges and controversy, as Human Relations commissioners and City Councilmembers attempted to balance residents' need for quiet use and enjoyment of their homes and other residents' desire for flexibility to host parties in their homes.

The Beverly Hills City Council voted 4-1 on an ordinance Sept. 8 that prohibits amplified sound that is "distinctly audible beyond the property line" between 10 p.m. and 8 a.m. seven days a week, imposes fines of up to \$250 for the second violation and up to \$1,000 for subsequent violations, and prohibits the rental of private homes for commercial parties, except for events or activities in connection with non-profit or charity functions. The ordinance is expected to come back for a second reading at the Sept. 20 city council meeting.

Prior to the vote, the City's noise ordinance prohibited amplified sound after 6 p.m., but police began enforcement at 10 p.m. A second section of the municipal code permitted some types of noise until 10 p.m. Part of the City Council's task was reconciling the inconsistencies in the two code sections.

"Just as the [Human Relations] Commission was unable to come up with one deciding direction, not everybody is going to be happy, but we're hoping to have some kind of compromise and understanding," Councilmember Lili Bosse said before public comment and council deliberations commenced.

Councilmembers were not all in agreement, with Vice Mayor Willie Brien voting no. He said imposing fines might pit neighbors against neighbors, and he also expressed concern about changing the current ordinance to 10 p.m., because statistics showed that police receive noise complaint calls before 10 p.m. Brien emphasized the ordinance pertains only to amplified sound, and as long as neighbors are not disturbed, residents can host social gatherings in their homes at any time.

Southwest Homeowners Association President Ken Goldman addressed the City Council requesting no change to the current ordinance, but he said he was pleased the City Council had listened to the public comments in deciding to set the cut-off time for amplified sound at 10 p.m., seven days a week. The City Council-Human Relations Commission liaisons Bosse and Mayor Barry Brucker had recommended allowing amplified sound until 11 p.m. on Friday and Saturday.

"Listen, the enforcement time is 10 o'clock now. That's what they kept and that's just fine with me," Goldman said Sept. 9.

Two other resident association presidents—North Homeowners Association President and former Mayor Robert K. Tanenbaum and Municipal League President Thomas White—and many residents also urged the city council to make no changes to the current ordinance, with many citing the argument, "If it ain't broke, don't fix it."

Bosse explained representatives of the police department



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told the council liaisons that if no change was made to the ordinance, police would have to enforce it at 6 p.m. and it would likely generate more calls to the police. Bosse pointed out the City has a general disturbance-of-the-peace ordinance in place that allows residents to call the police about "loud and unreasonable noise" 24 hours a day.

"The issue here tonight is whether or not we will have a city

that respects the values that have distinguished us and those values are about civility, respect and maturity, and realizing how we behave in our community," Tanenbaum said. "We do not play out every impulse. We edit our conduct so that we don't interfere with the rights of our neighbors."

In her presentation of the council liaisons' recommendation, Bosse announced the committee had taken public comment, the police department's current enforcement practice, and statistics of noise complaint phone calls fielded by the police into account. Bosse also said the liaisons received a petition to allow amplified sound until midnight on weekends with 520 signatures, and a petition to allow amplified sound until 1 a.m. on weekends and a permit process to allow amplified sound until 2 a.m. with 384 signatures.

"I hope you reconsider because the notion of petitions strikes me that if that's part of the equation, we need a referendum to remove this from you and let the people decide the question," Tanenbaum said.

White said he would accept a technical change so the police department's practice would fit the ordinance.

"It's working perfectly for a community of 34,000 people and we are getting along in a matter that is harmonious and equitable for every member of this community and every cultural group that comprises the wonderful breadth of our residential community," White said. "If you need to make a technical change to make the practice fit the ordinance, go ahead and do so."

Although the majority of speakers at last week's meeting opposed any change to the noise ordinance, three residents spoke in favor of extending the hours amplified sound is allowed to provide residents flexibility to host parties in their own homes.

"I believe consideration should go both ways," Kathy Afshani said. "If I'm considerate of my neighbor, my neighbor should be considerate of me. I've lived in my house now for 12 years, and I have had a total of two parties. I think I am entitled to have those two parties in 12 years."

Afshani said she once had a party where guests were sitting around telling jokes, and the police showed up.

"The policeman told me, 'You have really bad neighbors, because I couldn't even hear you and I was out in the street,'" Afshani said. "I think some of these calls are just meant to bother people. They're calling out of spite."

Afshani supported changing the ordinance to allow amplified sound until 11 p.m. and pushed for midnight on Friday and Saturday nights. Her husband Shahriar Afshani said it was limiting to end parties at 10 p.m.

"It is not the intent of anyone to have a party to create a nuisance for their neighbors," Shahrar said. "In fact, we go out of our way to make sure our neighbors are not affected. We extend them an invitation, we let them know what's going on, and we try to make it as easy and painless as possible."

The noise ordinance has been challenging since the Human Relations Commission took up the task of updating it in April, beginning with three public outreach meetings, and two meetings of deliberations.

One point of controversy relates to why the 50-year-old ordinance was brought before the city council in the first place. Tanenbaum said the issue was before the city council not in order to reconcile two conflicting sections of the municipal code, but because of "political cronyism."

"One of your members who's not here now wanted this for his voting bloc, pure and simple," Tanenbaum said. "The last thing we want to do in the community is have the perception of that kind of cronyism."

Then-Mayor Jimmy Delshad requested information about the ordinance in late November 2010, and the previous city council expressed support for reviewing the noise ordinance at that time, according to the Sept. 8 staff report.

Tanenbaum shared statistics obtained by Thomas White via a public records act request that revealed in a 10-year period from Oct 1, 2001 to Aug. 31, 2011 there have only been 15 citations issued for disturbance of the peace: six for radios or televisions that were too loud, six for noisy parties, and three for public disturbance. Bosse shared statistics of phone calls in a 121-day period earlier this year, during which there were 313 calls or 2.59 calls each day.

"Why would we do anything if only one percent of calls

relate to noise?" Tanenbaum said.

The topic also created the perception of a community divide. Residents provided a wide range of feedback and the Human Relations Commission was unable to reach consensus to make a recommendation to the City Council. On weekdays, Vice Chair Barbara Linder and Commissioners Tom Pease and Ilona Sherman proposed 6 p.m., Commissioner Rochelle Ginsburg proposed 8 p.m. and Chair Sharon R. Nazarian and Commissioner Yar Meshkaty proposed 10 p.m. as the cut-off time for amplified sound. On weekends, Linder, Pease and Sherman proposed 10 p.m., Ginsburg proposed 11 p.m. and Nazarian and Meshkaty proposed midnight.

Nazarian said she was disappointed the commission did not reach consensus, but the votes were "an accurate reflection of the different views of the community."

Kathy Afshani said she hated that the issue became so divisive.

"I don't think parties are just relegated to Persians. No other culture has parties?" Afshani said. "I really hated hearing that. I'm sorry; it really offended me. One more thing I kept hearing is [this was a] policy of 50 years. We're not the same demographics as 50 years ago. There are younger people living here. We need to change the laws."

Goldman said the issue was purely about noise and not cultural difference. Former Board of Education President Mel Spitz expressed a similar point in his Sept. 8 letter to the City Council.

"You should determine whether the right of Beverly Hills residents and their children to quiet repose every night of the week is of higher priority than the right of neighbors to make noise late at night, regardless of their cultural heritage," Spitz wrote.

Bosse said the noise ordinance process made it clear education is needed in the community about showing consideration

for neighbors and preserving the City's quality of life.

"This issue brought so much divisiveness to this community," Bosse said. "It really broke my heart. I think this is a real defining moment as to who we are and what we are as a community."

In the end, Bosse was correct: Residents had mixed reactions to the outcome.

Afshani said she was disappointed, and Tanenbaum said he is interested in pursuing a way to decide the noise issue at the ballot box.

"[If you] increase the time, you increase the noise intrusion on innocent residents who will become victims of loud and abusive noise," Tanenbaum said. "That is something that is contrary to the values of the people that live in the city. That being the case, I certainly with others, we are considering a way to bring this to the voters of our city so that they can participate and have their voices heard."

In contrast, Goldman declared, "Democracy works!" in a letter to Southwest Homeowners Association residents.

"Because a number of residents came to the City Council meeting last night, wrote and e-mailed and spoke up, the City Council voted to keep the 10 p.m. cut-off for amplified noise every day," Goldman wrote.

Public Works Commissioner Joe Shooshani, who did not speak but attended the Sept. 8 meeting, said he had hoped for a later cut-off time on weekends.

"I think the demographics of the city have changed and this reality should have been shown in the ordinance," Shooshani said. "There are more younger people now, more cosmopolitan people who think the city is not a sleepy village. The city is an urban area."

Despite Shooshani's desire for a later cut-off time on weekends, he said the "most important thing is we keep our city balanced and a good relationship between the citizens."

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foliage owner. The City Council directed the Planning Commission to make the ordinance cost-neutral to the City.

View owners would be required to wait 12 months after obtaining the non-binding city advisory opinion before applying for a view restoration permit, to avoid the possibility of the City issuing conflicting opinions.

"I think quite frankly there's enough items in the ordinance that will really encourage people to resolve their differences before it ever needs to get to the Planning Commission, let alone the City Council on appeal," Yukelson said.

With regard to the ordinance's "safe harbor plane," the Planning Commission recommended 14 feet as the maximum permitted height of foliage from the flat bed of the property. Fourteen feet is the maximum height of homes allowed in the area. At the last meeting, the commission considered a maximum height of 16 feet.

"We're very pleased about [the ordinance]," Yukelson said. "We've worked very diligently on this ordinance and we're all very happy to see something recommended to the City Council."

The City Council approved Part I of the ordinance, the code enforcement portion that set standards for fences and hedges, on Aug. 2.

Planning Commission forwards oil well drilling ordinance to City Council

The Planning Commission voted 3-0 Sept. 8 to recommend the oil well drilling ordinance, which prohibits drilling and extracting oil, gas and other hydrocarbon substances from surface locations in the City, to the City Council. Commission Chair Dan Yukelson

and Commissioner Noah Furie recused themselves because they receive royalties from Venoco, the company in charge of oil well drilling operations at Beverly High.

"We were directed by the City Council to forward an ordinance to them, so our purview was fairly limited," Vice Chair Craig Corman said. "We were just looking to make sure it would conform with the general plan, which it does."

The oil well drilling ordinance does not prohibit slant drilling in Beverly Hills, but language in the ordinance prohibits any drilling beneath the City from originating at a site that is within 500 feet of a school or park property.

The previous City Council passed an urgency ordinance prohibiting oil well drilling in Beverly Hills in March. The ordinance will not affect the oil well drilling currently taking place on the Beverly High drill site, the last remaining surface oil drilling and extraction site in the City, but it will prevent the school district and city from extending Venoco's lease when it expires Dec. 31, 2016. The three-party agreement between the City, BHUSD and Venoco was signed in 1978.

City Manager Jeff Kolin told the school board at its June 28 meeting that the ordinance was motivated by concerns from community members and elected officials about oil drilling on the high school site. Kolin also told the school board the City had heard there was interest or potential that the school district might commence discussions with Venoco about a possible lease extension.

"In terms of policy—is it a good idea financially for the City and schools as well as residents?—that was not what we looked at," Corman said. "That's really a City Council decision."

The City Council and Board of Education held a joint meeting on the topic and decided to form an ad hoc committee to brainstorm how to make up the school district's \$1 million in annual revenue from the oil well. The City also earns approximately \$1 million a year in revenue from the oil well drilling operations.

Roxanne Diaz appointed City Attorney in Manhattan Beach and Indio

Beverly Hills Chief Assistant City Attorney Roxanne Diaz was named city attorney of Manhattan Beach and Indio last week. The Manhattan Beach City Council appointed Diaz and the firm Richards, Watson and Gershon to provide legal services on Tuesday, and the Indio City Council approved Diaz and the firm on Wednesday night.

Diaz, who is a partner and chair of the Public Law Department at Richards, Watson and Gershon, said both appointments were effective immediately, and that her final Beverly Hills City Council meeting was Sept. 8.

"I'll still be working with [Beverly Hills] policy and management on their branding program," said Diaz, who has worked with the City of Beverly Hills for the past 10 years. "I'm really pleased I'll still be able to have that connection with the city on that initiative."

Diaz said she looks forward to the challenges of her two new positions. She will also

continue as city attorney at Hidden Hills.

"It's a very challenging time, [but] it's a good time," Diaz said. "I'm looking forward to helping both cities achieve what they want to achieve."

Due to Indio's distance from Los Angeles, Diaz said she would be in Indio twice a month to attend city council meetings.

"With the advent of e-mail and other electronic communications, it's easy to facilitate providing services, even [if] I'm not onsite in City Hall," Diaz said. When necessary, Diaz said other members of her firm would provide services to her clients.

Beverly Hills City Attorney Larry Wiener announced Diaz's Manhattan Beach appointment at the city council meeting on Sept. 8. Wiener was appointed Manhattan Beach senior counsel.

"I want to congratulate her on that and express my sentiments she will be sorely missed here at Beverly Hills City Council meetings on Tuesday nights, but Manhattan Beach is getting a fine city attorney in Roxanne," Wiener said.

Wiener said Lolly Enriquez, a partner in the Public Law and Public Finance departments of Richards, Watson and Gershon, will primarily take on Diaz's responsibilities, but no official title has been allocated yet.

Five Beverly High seniors vie for National Merit Scholarship

Beverly High seniors Jeremy E. Deutsch, Ezra T. Laemmle, Liza Raffi, Chloe A. Revery, and Mallika V. Sen were among 16,000 semifinalists named in the 57th annual National Merit Scholarship Program. The National Merit Scholarship Corporation will award 8,300 scholarships in the spring.

--Briefs compiled by Melanie Anderson