

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: Sheriff's Department

BOARD AGENDA #: 9:15 a.m.

AGENDA DATE: October 25, 2016

SUBJECT:

Public Hearing to Consider an Appeal of the Treasurer-Tax Collector's Department Denial of a Dance Hall Permit for El Paraiso Night Club

BOARD ACTION AS FOLLOWS:

No. 2016-541

On motion of Supervisor DeMartini, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) X Other:

MOTION: Conducted the public hearing to consider an appeal of the Treasurer-Tax Collector's Department denial of a Dance Hall Permit for El Paraiso Night Club; the Board granted the appeal and issued a 6 month Dance Hall Permit to the El Paraiso Nightclub effective upon approval by the Sheriff's Office of a Security Plan and operating conditions; a condition of approval shall be that the owner will within 30 days apply for and diligently pursue a Conditional Use Permit

ATTEST: Elizabeth A. King
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Sheriff's Department

Urgent

Routine

BOARD AGENDA #: 9:15 a.m.

AGENDA DATE: October 25, 2016

CEO CONCURRENCE:



4/5 Vote Required: Yes No

SUBJECT:

Public Hearing to Consider an Appeal of the Treasurer-Tax Collector's Department Denial of a Dance Hall Permit for El Paraiso Night Club

STAFF RECOMMENDATIONS:

1. Consider an appeal of the Treasurer-Tax Collector's Department denial of a Dance Hall Permit for El Paraiso Night Club

DISCUSSION:

This Public Hearing is to consider an appeal of the Treasurer-Tax Collector's Department denial of a "Permit to Conduct a Public Dance Hall" at El Paraiso Night Club, located at 1550 Crows Landing Road. A Permit to Conduct a Public Dance Hall is a discretionary permit issued by the Treasurer-Tax Collector after the referral to the Sheriff's Department for review. The Dance Hall permit is an annual permit and is separate and in addition to the required business license.

In 1993, El Paraiso submitted an application to the Treasurer-Tax Collector's Department for a business license. As part of the process, the applicant is required to seek approval from the Planning Department. El Paraiso sought and received that approval and obtained their business license in December 1993.

The current business license was originally approved as a bar by the Planning Department on December 28, 1993 under the name of El Paraiso. The business license, which is required to be renewed every three years, has been renewed by the Treasurer-Tax Collector's Department since 1993 without further Planning Department review. Over the years the use, as described on the business license renewal application, has changed from a bar in 1993, to a bar and night club in 1996, back to a bar in 2000, and back to a bar and night club in 2003. The name has also transitioned over the years from "El Paraiso" to "El Paraiso Night Club". The stated on-site business activities in 2008 were "bar and dance" and in 2014 the business activity was described as "dancing". The business license for El Paraiso is valid until December 30, 2017.

A separate permit is required to conduct or operate a dance hall. The El Paraiso Night Club is one of four establishments in the County that has obtained a Permit to Conduct a Public Dance Hall. This is issued by the Treasurer-Tax Collector's Department as part of business operations. El Paraiso Night Club was first issued a Dance Hall Permit on June 20, 2002.

Public Hearing to Consider an Appeal of the Treasurer-Tax Collector's Department Denial of a Dance Hall Permit for El Paraiso Night Club

Each year, there is a renewal process to apply for a Permit to Conduct a Public Dance Hall. The application is circulated through several County departments, including the Sheriff. The Sheriff's role in the permit process is to assess the impacts to public safety at the requesting business and the surrounding neighborhoods, in addition to the impact on Sheriff personnel resources in responding to calls for service.

As part of the 2014 application process review, the Sheriff's Department noted a significant number of calls for service at the business, which included robberies, assaults, and property crimes. The Dance Hall permit was initially denied. The business owners requested a meeting with staff from the Sheriff's Department in an attempt to reinstate the permit denial. Sheriff staff worked diligently with the business owners and provided a crime reduction strategy. Those recommendations included fencing the property, providing extra lighting, installing security cameras, and a carefully assessing their relationships with mobile food vendors who park in the parking lot. Patrons who loiter in the parking lot area near the food vendors were a significant source of calls for the Sheriff, which resulted in incidents that involved violent assaults and robberies.

The Sheriff worked closely with the property owners over several weeks as they implemented many of the recommendations, and the renewal request was ultimately approved by the Sheriff and returned to the Treasurer-Tax Collector. The Sheriff has monitored the number and types of calls for service over the past two years. During that time, there have been 84 calls for service at the El Paraiso Night Club property. In addition, there were 874 calls for service in the areas immediately surrounding El Paraiso Night Club. Many of those incidents involved assaults, property crimes, and other violent crimes. On November 30, 2015 the California State Alcohol Beverage Control (ABC) conducted an enforcement operation at the business which resulted in three citations for liquor license violations.

In previous discussions with the owners of El Paraiso Night Club, they have asserted the majority of crimes or other incidents that drive responses by the Sheriff are the result of incidents which occur in the parking lot or other surrounding areas outside the bar itself. The owners argue the "Dance Hall" portion is critical to their business, as patrons usually go to the bar for the dancing and live music.

As the owners suggest, the "Dance Hall" is what attracts the majority of the clientele to the bar. In reviewing a number of the criminal offenses at the business, the majority of those incidents involved bar patrons. This has a direct impact on the safety and security of people living in the surrounding neighborhoods, as well as the public safety personnel who must respond to the business.

In 2016, the property owners requested a renewal of the Dance Hall permit, and the Sheriff recommended denial. The Sheriff has worked diligently with the owner in trying to reduce violent crimes occurring on the property, while at the same time attempting to preserve the safety and security of the neighborhoods surrounding the business.

Public Hearing to Consider an Appeal of the Treasurer-Tax Collector's Department Denial of a Dance Hall Permit for El Paraiso Night Club

On July 18, 2016, the El Paraiso Night Club was notified by the Treasurer-Tax Collector Department that their application for a dance hall permit was denied based upon the recommendation of the Stanislaus County Sheriff's Department. An appeal of the denial was submitted by Jorge Bustos, Co-Owner of El Paraiso Night Club to the Clerk of the Board of Supervisors on August 29, 2016. In accordance with Stanislaus County Code Section 6.44.080, dance hall application appeals are filed with the Board of Supervisors. After receiving the appeal, the Board of Supervisors, on September 27, 2016, set a hearing date for consideration of the appeal.

The Notice of Public Hearing was published on October 14, 2016 in the Modesto Bee and Land Owner Notices were mailed on October 13, 2016 to surrounding land owners of the El Paraiso Night Club.

In addition to the crime and calls for services, the property does not have the proper land use approvals required to operate as a night club. The property is located in the C-2 (General Commercial) zoning district. Bars and night clubs are a permitted use in the C-2 zoning district; however, since at least 1980, a night club located within 200-feet of the boundary of any R district is required to obtain a use permit. The subject property touches the border of a Rural Residential (R-A) zoning district. Records in the Planning Department show no use permit has been issued to the property.

Based on the Planning Department's review, it appears that the original 1993 business license was issued in conformance with the C-2 zoning district; however, the addition of a night club use as part of the 1996 renewal should have been preceded by an application for a use permit. Neither a business license nor a dance hall permit would have been issued in 1996, and cannot be issued without first obtaining a use permit for a night club. Consequently, the permit to conduct a public dance hall sought by the applicant cannot be issued until a use permit for a night club is obtained.

As a result of the continuing criminal activity occurring on the property and because the proper land use approvals have not been obtained, staff recommends that the Board of Supervisors reject the applicant's appeal of the Treasurer-Tax Collector's Department denial of a "Permit to Conduct a Public Dance Hall" at El Paraiso Night Club, located at 1550 Crows Landing Road.

POLICY ISSUE:

Stanislaus County Code Chapter 6.44 outlines the dance hall permit application process and specifies that in the event the Treasurer-Tax Collector does not issue a permit, the applicant may appeal to the Board of Supervisor.

FISCAL IMPACT:

Costs associated with processing the appeal, including setting of the public hearing, publishing of required notices, and conducting the hearing, will be funded as part of the 2016-2017 Fiscal Year Board of Supervisor's budget.

Public Hearing to Consider an Appeal of the Treasurer-Tax Collector's Department Denial of a Dance Hall Permit for El Paraiso Night Club

BOARD OF SUPERVISORS' PRIORITY:

Setting a public hearing to consider an appeal of the Treasurer-Tax Collector's Department denial of a Dance Hall Permit is consistent with the Board's priority of A Safe Community.

STAFFING IMPACT:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Captain James Gordon, Sheriff's Department 209.525.7114

ATTACHMENT(S):

1. July 18, 2016 Treasurer-Tax Collector Denial Letter
2. August 25, 2016 Appeal Letter from Mr. Bustos with enclosures
3. October 13, 2016 Correspondence from Mr. Flores, Attorney for Mr. Bustos

Attachment 1



OFFICE OF TREASURER / TAX COLLECTOR

Gordon B. Ford

Treasurer / Tax Collector

P. O. Box 859, Modesto, CA 95353-0859

Phone: 209.525.6388 Fax: 209.525.7668

July 18, 2016

EL PARAISO NIGHT CLUB
C/O JORGE BUSTOS



RE: APPLICATION FOR DANCE HALL PERMIT

Dear Mr. Bustos:

We regret to inform you that your application for a Stanislaus County Dance Hall Permit has not been approved. Your application was denied by the Stanislaus County Sheriff's Department.

We have forwarded this information to code enforcement. If you have any questions or need further explanation, please contact me at (209) 525-6388.

Sincerely,

Gordon B. Ford
Treasurer – Tax Collector
Stanislaus County

Joan Corwin
Accounting Technician

GBF:jc

Attachment 2

Jorge Bustos
EL PARAISO NIGHT CLUB
5112 Crows Landing Rd.
Modesto, California 95351
(209)

BOARD OF SUPERVISORS

2016 AUG 29 P 3:47

DATE: August 25, 2016

HAND DELIVERED

TO: Clerk of the Board of Supervisors
Gordon Ford, Office of the Treasurer

I am informed that my business application for a dance hall permit has been "denied by the Stanislaus County Sheriff's Department." Copy attached.

I discussed the matter with the Sheriff's Department.

I hereby appeal the denial in accordance with Chapter 6.44.080.

Dated: 8/29/16

Signed: Jorge Bustos
Jorge Bustos, Co-Owner, Applicant

Law Office Of
Armando M. Flores
429 Thirteenth Street
Modesto, California 95354
(209) 524-4717
Fax (209) 524-4758
E-mail: amfloreslawoffice@gmail.com

CHAPTER 6.44. DANCE HALLS

1. Application referred for investigation to Sheriff. 6.44.050
 - a) No time limit to conduct investigation.
 - b) Vague review standard. What is “safe and proper”. Leaves it to discretion of Sheriff.
 - c) Sheriff shall “report.” No definition of report. No written report. No access to the report to determine accuracy and fairness.
2. Tax Collector shall “grant or “refuse” permit.
 - a) No time limit to review required. Can take weeks.
 - b) No reason for denial required.
 - c) No documentation required.
 - d) The “Comments” section of the Application is not released to applicant.
 - e) Process flawed for lack of transparency and disclosure.
 - f) No LETTER OF DENIAL delivered to applicant with reasons. Only a phone call after checking.
3. Concerns
 - a) Denial of permit has caused loss of 90% per cent of business. Workers terminated.
 - b) Requested proof of complaints, service calls and reports. Non provided.
 - c) Sheriff shut down the business without providing reasons and documentation
 - d) No opportunity to meet and confer to discuss remedial action by the applicant.
4. Remedies: Review and Revise Chapter 6.44. Include the following:
 - a) Take the process out of Tax Collector process. Not expertise.
 - b) Move to Planning Commission.
 - e) If not set up a quick internal process before review by the Board of Supervisors that is quick and low cost. Streamline the process.
 - d) Require specific time period for review of the application. Example: 30 days.
 - c) Require Sheriff, Fire Department, and Environmental Resources to
 1. Meet and confer with applicant and make recommendations for improvement
 2. Allow for remedial action by the applicant as recommended.
 3. Explain in writing and provide documentation of problems.
5. 6.44.080 Denial Appeal: Process not defined. How?



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OFFICE OF TREASURER / TAX COLLECTOR

Gordon B. Ford
 Treasurer / Tax Collector
 P. O. Box 859, Modesto, CA 95353-0859
 Phone: 209.525.6388 Fax: 209.525.7668

APPLICATION FOR PERMIT TO CONDUCT A PUBLIC DANCE HALL

NAME OF DANCE HALL: EL PARAISO NIGHT CLUB

ADDRESS OF DANCE HALL: 1550 CROWS LANDING RD

The undersigned hereby makes an application for a Permit to keep and conduct a Public Dance Hall in the County of Stanislaus, State of California, at the place and address set forth above, from date of issuance of Permit, to and including one year.

It is hereby expressly agreed that in the event that this Permit shall be issued, that said Dance Hall should be conducted in strict accord with the provisions of the law subject to the provisions of this application, and that he/she will be held responsible for violation of any provision of law or ordinance regulation Public Dance Halls. There are ~~300~~ 500 square feet of dancing space in said hall.

The undersigned is the proprietor of the hall located at the above address in which hall, an application for keeping and conducting a Public Dance Hall is hereby made.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on 7-7-16 at Modesto, California

Signed: Jorge Bustos Print Name: Jorge Bustos

For Office Use Only

Sheriff's Office			
YES	(NO)	Date <u>7/14/16</u>	Signature: <u>[Signature]</u>
ABC PERMIT		Comments: <u>ISSUED</u>	
Number of attendants required to be present when said dance hall is open to the public is _____			

Fire Department			
YES	NO	Date	Signature:
Fee: \$195.00		Comments:	

Environmental Resources			
YES	NO		Signature:
Kitchen Facility:	Water System		Food Prepared: if caterer state name
YES	NO	Public Private Well	On-Site Caterer

Tax Collector		
Issue Date:	Fees Collected: <u>1275.00</u>	Receipt No.: <u>160678</u>
Date: <u>7/14/16</u>	Signature: <u>[Signature]</u>	

Permit #13-001

Attachment 3

Law Office of
Armando M. Flores
429 Thirteenth Street
Modesto, California 95354
(209) 524-4717
Fax (209) 524-4758
E-Mail: amfloreslawoffice@gmail.com

BOARD OF SUPERVISORS ✓

2016 OCT 13 A 10:28

DATE: October 13, 2016

TO: Stanislaus County Board of Supervisors

Jim DeMartini, Vito Chiesa, William O'Brien, Terry Withrow, Dick Montieth

SUBJECT: El Paraiso. Dance Hall Permit Appeal

Hearing: October 25, 9:15 a.m.

ENCLOSURE: Dance Hall Permit Application and Issues and Recommendations Outline.

For your information and files.

Thank you for the opportunity to be heard.

Sincerely yours,



Law Office of Armando M. Flores

cc: Juvenal Alvarado; Jorge Bustos

Stanislaus County Code: CHAPTER 6.44. DANCE HALLS

PRESENTATION:

1. Application referred for review to Sheriff.
 - a) No time limit to conduct review and respond.
 - b) Vague review standard. What is “safe and proper” ?
 - c) Sheriff shall “report.” No definition of report. No written report required.
 - d) No access to the report to determine accuracy and basis for denial.
2. Tax Collector shall “grant or “refuse” permit.
 - a) No time limit for review of the application.
 - b) Letter of Denial of Permit gives no reason(s) for denial.
 - c) No documentation required.
3. Issues
 - a) Sheriff said “Denied” without providing specific reasons or documentation.
 - b) Requested proof of complaints, service calls and reports. None provided.
 - c) No opportunity to meet and confer to discuss remedial action by the business before the denial issued.
 - d) Denial has caused loss of 90% per cent of business. Loss of income to owners.
 - e) Business closed and employees terminated.
 - f) Loss of tax revenue to the County.
4. Remedies: Revise **Chapter 6.44**. Include the following:
 - a) Move process to Planning Commission as with “Use Permit.”
 - d) Require specific time period for review of the application. Example: 30 days.
 - c) Require Sheriff, Fire Department, and Environmental Resources to:
 1. Give reasons in writing for Denial and provide documentation.
 2. Require meet and confer with applicant before denial.
 3. Allow time for remedial action by the applicant as recommended.
5. **6.44.080 Denial Appeal**: Process not defined nor time limit to set for hearing.



Gordon B. Ford
Treasurer/Tax Collector

PO Box 859, Modesto CA 95353-0859
Phone: 209.525.6388 Fax: 209.525.7868

APPLICATION FOR PERMIT TO CONDUCT A PUBLIC DANCE HALL

NAME OF DANCE HALL: _____

ADDRESS OF DANCE HALL: _____

The undersigned hereby makes application for a Permit to keep and conduct a Public Dance Hall in the County of Stanislaus, State of California, at the place and address set forth above, from date of issuance of Permit, to and including one year.

It is hereby expressly agreed that in the event that this Permit shall be issued, that said Dance Hall shall be conducted in strict accord with the provisions of the law subject to the provisions of this application, and that he/she will be held responsible for violation of any provision of law or ordinance regulation Public Dance Halls. There are _____ square feet of dancing space in said hall.

The undersigned is the proprietor of the hall located at the above address, in which hall an application for keeping and conducting a Public Dance Hall is hereby made.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on _____ at Modesto, California.

Applicant

Date:	Phone:	Address:
Sign		

Sheriff's Office

YES	NO	Date:	Sign
ABC Permit		Comments:	

Fire Department

YES	NO	Date:	Sign:
Fee: \$195.00		Comments:	

Environmental Resources

YES	NO	Date:	Sign:		
Kitchen Facility:		Water System:		Food Prepared: if caterer state name	
Yes	No	Public	Private Well	On-Site	Caterer: _____

Tax Collector

Issue Date:	Fees Collected:	Receipt No.:
Date:	Signed:	



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OFFICE OF TREASURER / TAX COLLECTOR

Gordon B. Ford
 Treasurer / Tax Collector
 P. O. Box 859, Modesto, CA 95363-0859
 Phone: 209.525.6368 Fax: 209.525.7868

**APPLICATION FOR PERMIT TO CONDUCT A
 PUBLIC DANCE HALL**

NAME OF DANCE HALL: EL PARAISO NIGHT CLUB

ADDRESS OF DANCE HALL: 1550 CROWS LANDING RD

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It is hereby expressly agreed that in the event that this Permit shall be issued, that said Dance Hall should be conducted in strict accord with the provisions of the law subject to the provisions of this application, and that he/she will be held responsible for violation of any provision of law or ordinance regulation Public Dance Halls. There are ~~500~~ 500 square feet of dancing space in said hall.

The undersigned is the proprietor of the hall located at the above address in which hall, an application for keeping and conducting a Public Dance Hall is hereby made.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on 7-7-16 at Modesto, California

Signed: George Bustos Print Name: George Bustos

Phone No.: 209 531 7841 Address:

For Office Use Only

Sheriff's Office

YES	<input checked="" type="checkbox"/> NO	Date <u>7/14/16</u>	Signature: <u>[Signature]</u>
ABC PERMIT			Comments: <u>ISSUED</u>

Number of attendants required to be present when said dance hall is open to the public is _____

Fire Department

YES	<input checked="" type="checkbox"/> NO	Date	Signature:
Fee: \$195.00			Comments:

Environmental Resources

YES	<input checked="" type="checkbox"/> NO	Signature:
Kitchen Facility:	Water System	Food Prepared: if caterer state name
YES NO	Public Private Well	On-Site Caterer

Tax Collector

Issue Date:	Fees Collected: <u>\$295.22</u>	Receipt No.: <u>160678</u>
Date: <u>7/17/16</u>	Signature: <u>[Signature]</u>	

Permit #13-001