

2006-2007 Civil Grand Jury
City and County of San Francisco

THE ENTERTAINMENT COMMISSION:

A WORK IN PROGRESS

Report Released: July 9, 2007

Purpose of the Civil Grand Jury

The purpose of the Civil Grand Jury is to investigate the operations of the various departments, agencies, and officers of the government of the City and County of San Francisco to develop constructive recommendations for improving their operations, as required by law.

Each Civil Grand Jury has the opportunity and responsibility to determine which departments, agencies and officers it will investigate during its one-year term of office. To accomplish this task, the Civil Grand Jury divides into committees. Each committee conducts its research by visiting government facilities, meeting with public officials and reviewing appropriate documents.

The nineteen members of the Civil Grand Jury are selected at random from a pool of thirty prospective jurors. San Francisco residents are invited to apply. More information can be found at: http://www.sfgov.org/site/courts_page.asp?id=3680, or by contacting Civil Grand Jury, 400 McAllister Street, Room 008, San Francisco, CA 94102; (415) 551-3605.

State Law Requirement

Pursuant to state law, reports of the Civil Grand Jury do not identify the names or provide identifying information about individuals who spoke to the Civil Grand Jury.

Departments and agencies identified in the report must respond to the Presiding Judge of the Superior Court within the number of days specified, with a copy sent to the Board of Supervisors. For each finding of the Civil Grand Jury, the response must either (1) agree with the finding, or (2) disagree with it, wholly or partially, and explain why. Further, as to each recommendation made by the Civil Grand Jury, the responding party must report either (1) that the recommendation has been implemented, with a summary explanation of how it was implemented; (2) the recommendation has not been implemented, but will be implemented in the future, with a time frame for the implementation; (3) the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or (4) that recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (California Penal Code, sections 933, 933.05).

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PURPOSE OF THE REPORT

The 2006-07 Civil Grand Jury evaluated the effectiveness of the San Francisco Entertainment Commission which was created in 2002 and became operational in 2003.

I. SUMMARY

California has long been known for solving legal and social problems in an innovative, cutting edge way. In keeping with this tradition, when San Francisco focused its attention on the issue of both promoting and regulating entertainment venues within its boundaries in 2002, a unique governmental body, the Entertainment Commission, was created. This commission had the potential then, and still has it now, to balance the often conflicting needs of many constituencies, notably the need for a favorable business climate for places of entertainment, as well as the need for peace and quiet for residents. While the Entertainment Commission has not yet fully realized its potential, there is still time for it to do so if it meets the challenges outlined in this report.

The Entertainment Commission was created with ten objectives in mind as outlined in Administrative Code 90, sec. 90.1. The Commission's perception of its own effectiveness in meeting those ten objectives differs significantly from the perception of the Civil Grand Jury.

If there is one overarching theme to this report it is that people connected to the Entertainment Commission in a variety of ways need to improve their communication with one another, both in formal written ways mandated by law as well as in countless informal ways that make any organization work. An equally important theme is that of leadership and oversight. Effective leadership is needed to guide the Commission to formulate a clear vision of how entertainment should be regulated in San Francisco and to engage in oversight so as to ensure that the Commission is on track in meeting that vision.

The Civil Grand Jury observed that the Entertainment Commission does not follow recognized operational procedures, what in the private sector would be called "good business practices." It has no institutional method in place for devising and stating its goals for the coming year, developing actions by which those goals can be met, measuring the success of those actions, correcting where gaps in accomplishment are identified, and following up on those corrections.

The Entertainment Commission is required to submit annual reports, an effectiveness report, and a fee analysis report on a specific schedule outlined in Administrative Code 90. The Commission seems to have produced some of those reports in response to persistent requests from the Civil Grand Jury and the reports thus produced have an unfortunate haphazard quality to

them. The Commission has missed a great opportunity to use these reports to chronicle its progress and to publicize those things that have inhibited its effectiveness (e.g., lack of budgetary support from the City).

The Entertainment Commission has a staff of four people and has requested an additional three for 2007-08. However, the record on adequate job descriptions, task tracking and performance reviews of existing staff is so spotty as to call into question just what the additional staff would do.

Finally, there are challenges hindering the effectiveness of the Entertainment Commission, notably in the area of communication, expectations of Commissioners, involvement of the City Attorney, the Commission's authority to suspend or revoke Place of Entertainment permits, and leadership and vision for the future.

II. INTRODUCTION

Prior to 2003, San Francisco's nightclubs were operated under permits issued by the San Francisco Police Department. In a report of the 1999-2000 Civil Grand Jury, entitled "Club Permits," the Jury described the process by which clubs and other entertainment venues received permits in San Francisco as follows:

An application for a proposed nightclub must first be approved by the City's Planning Commission, which checks the use for compatibility with the area in which it will be located. Upon approval by the Planning Commission, the applicant submits an application for operating permits on forms provided by the SFPD Permit Office. A publicly-noticed hearing is scheduled. If at the hearing, no objections to the application are raised and the district permit officer and district commander recommend that the application be approved, the police captain heading the Permit Office will make a recommendation for approval to the Chief of Police, who almost always grants a conditional permit based on his subordinates' recommendations.

The 1999-2000 Civil Grand Jury investigation concluded in a recommendation that the entertainment permit process should be assumed by a newly established Entertainment Commission.

The San Francisco Entertainment Commission was established by an ordinance passed by the Board of Supervisors in July 2002. The Commission became operational in 2003. In November 2002, the voters of San Francisco passed Proposition F, which allows the Mayor to appoint four of the seven Entertainment Commissioners and the Board of Supervisors to appoint three. It also staggers the terms of the Commissioners to assure continuity.

When the San Francisco Police Department issued permits, it was the permitting agency, the enforcer, the judge and the jury. Creation of the Entertainment Commission removed permitting, suspensions and revocations from the police and put these functions in the

Commission, leaving the police with citation authority only. Such a commission is unique in the United States and would seem at first blush to be the perfect vehicle for licensing places of entertainment in large metropolitan areas with a significant entertainment industry supported by both tourists and local residents.

In summer 2006, the San Francisco Civil Grand Jury received a citizen complaint regarding the response of the Entertainment Commission to problems related to the operation of a nightclub in one of San Francisco's neighborhoods. In following up on that complaint, the Jury became familiar with this still very new commission and its operation. Its creation was at least partly motivated by a Civil Grand Jury report; it is appropriate to revisit the issue and look at how/whether the Entertainment Commission has fulfilled its potential.

III. PROCEDURE

Members of the Civil Grand Jury interviewed numerous people related to the Entertainment Commission including concerned San Francisco residents, entertainment industry representatives, Entertainment Commissioners and staff, members of the San Francisco Board of Supervisors, and other city employees including police officers, whose responsibilities put them in regular contact with the Entertainment Commission.

Members of the Civil Grand Jury attended most of the Entertainment Commission hearings and meetings held during its term.

Members of the Civil Grand Jury read voluminous documentation, much of it available online.

IV. DISCUSSION

A. PURPOSES OF THE COMMISSION

The Entertainment Commission was created with ten purposes or objectives in mind, as stated in Administrative Code, sec. 90.1. The Civil Grand Jury will discuss each of the ten objectives, and how effectively the Entertainment Commission has accomplished these objectives by its actions. The Jury will report its findings by comparing and contrasting the points of view of:

- The Entertainment Commission, as stated in its own evaluation of performance in the *Effectiveness Report 2007*, (hereinafter ER07), with
- The entertainment industry, the community and representatives of City government,

outside the Entertainment Commission, as discovered in the investigation by the Civil Grand Jury.

(1) The Commission will "assist the organizers and operators of cultural, entertainment, athletic and similar events and establishments to apply for, and obtain from the commission and other City departments when the applicant satisfies the requirements therefor, all necessary permits from the City."

Despite this broad charge, in practice many cultural, entertainment, athletic and similar events require permits issued by City departments other than the Entertainment Commission, in particular, the Recreation & Parks Department and the San Francisco Police Department. The Entertainment Commission appears to have minimal involvement, at best, in this permitting process.

As described in the 2007 Effectiveness Report, the regular duties and activities of the Commission staff, especially the Deputy Executive Director, center on assisting and facilitating the granting of Place of Entertainment (POE) permits to nightclubs and one time event permits (loudspeakers, sound trucks, etc.)(ER07, pp. 1-2). The Commission points to its voting seat on ISCOTT, the Interdepartmental Staff Committee on Traffic and Transportation, "which keeps staff involved in the process of closing streets for cultural, entertainment and athletic events" (ER07, p. 2).

Finding A.1.a. In its daily operations, the Entertainment Commission issues Place of Entertainment permits to nightclubs. It has a consulting role in the management of one-time events through ISCOTT and issues specific intent permits for one-time events.

- **Recommendation A.1.a.** The Administrative Code section cited should be changed to reflect the greatly reduced permit issuance responsibility that is the reality of the Entertainment Commission's work.

In its Effectiveness Report, the Commission speaks of its accomplishments as a designated single point of contact with various departments, including having reduced the turnaround time for approvals of most permits. (ER07, p. 2) Further, it points to having mounted a strong outreach program to different associations that represent some of the primary event coordinators to help applicants effectively plan events and accomplish the application process. (ER07, p. 2)

Despite this broad claim, during extensive interviews with the Entertainment Commissioners and Commission staff, neither the Commission, nor the staff, gave the Civil Grand Jury specific information detailing or substantiating this claim. In fact, the Civil Grand Jury heard repeatedly of communication problems with the Commission by members of the industry, the community and City government.

The Civil Grand Jury, admittedly a magnet for complaints, has heard a great deal about

the dysfunctionality of the Entertainment Commission. A citizen complaint about the Commission started this investigation. An attorney representing a client who owns several clubs in San Francisco sought out the Civil Grand Jury to discuss the lack of coherent procedure and process in the Entertainment Commission's permitting process. Members of the Police and Fire Departments have complained to the Civil Grand Jury about how the Commission functions, particularly in terms of problematic communication.

Finding A.1.b. People outside the Entertainment Commission who work with the Commission are not impressed with the Commission's record on assisting entertainment venues.

- **Recommendation A.1.b.** Future Effectiveness Reports from the Entertainment Commission must make a convincing case of the Commission's effectiveness by citing specific examples of ways in which the Commission has served its purposes and should forthrightly acknowledge its shortcomings with specific remedies.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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(2) The Commission will "promote the responsible conduct and operation of such events and establishments."

For much of the Commission's history, when permitted clubs have been irresponsible in their conduct, the Entertainment Commission has engaged in minimal effort to enforce a return to responsible conduct. The Commission has relied on the citation authority of other City departments, most notably the Police Department and the Fire Department, to enforce proper club behavior. However, in the last four months, the Commission has held two suspension hearings of permitted clubs that had repeatedly violated ordinances, thus providing some evidence of a tougher enforcement stance on the part of the Commission.

The Commission cites the passage of Scharod's Law by the San Francisco Board of Supervisors (BOS Ordinance #262-04), which requires all venues to have a security plan as part of their application as a means by which the Commission has been able to increase its oversight of club conduct.* "For permit holders that were inherited, the commission works mostly by bringing venue owners in similar geographic areas together for larger impact." (ER 07, pp. 2-3).

The Commission's Effectiveness Report claims that the "Broadway corridor" is an example of their successful effort to resolve conflicts between entertainment establishments and the residents. Scharod's Law has undoubtedly been an important help in promoting responsible

* Passed in 2004, named after a fifteen-year old boy who was shot at an entertainment venue, Scharod's Law amends the police code to include a security presence (whether San Francisco Police or private security) at all dance halls and places of entertainment to ensure the safety of patrons.

operation of events and establishments, but the Broadway corridor efforts have received decidedly mixed reviews. At least two of the Commissioners themselves frequently opine during Commission hearings that the Broadway entertainment trade is now moribund because of the enthusiastic efforts of the Police Department to curb that nighttime street scene. (See, for example, EC Hearing Minutes of 9/19/06, p. 10, where one Commissioner stated that authorities "had to make sure while clearing the streets they did not kill the businesses").

Finding A.2.b.1. As part of the permitting process, the Commission does advise club permit applicants on what constitutes responsible conduct.

Finding A.2.b.2. Communication and coordination between and among the Entertainment Commission and the Police and Fire departments is not as effective as it could be.

Finding A.2.b.3. Some of the successes cited to support the Commission's promotion of "responsible conduct" in fact are not total successes. For example, the cleanup in the Broadway corridor is a complex issue whose final outcome will not be known for some time to come.

- **Recommendation A.2.b.** The Entertainment Commission must try harder to communicate and coordinate its efforts with those of the Police Department in promoting responsible conduct at entertainment venues. To do so, the Commission staff and the police should have regular meetings.

RESPONSE REQUIRED FROM:	Entertainment Commission San Francisco Police Department San Francisco Fire Department (60 days)
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(3) The Commission will "promote the development of a vibrant entertainment and late-night entertainment industry within the City."

So far, in its brief history, the Entertainment Commission has engaged in very limited promotion of the development of a vibrant entertainment and late-night entertainment industry in San Francisco for one or more of the following possible reasons:

- a) There is a lack of expertise in marketing and public relations on the Entertainment Commission staff and this has inhibited such promotion.
- b) Communication between the Entertainment Commission and the Mayor's office has not been sufficiently good to allow such efforts to move forward.
- c) The staff is too small to handle any responsibilities other than facilitating the permit process for clubs and places of entertainment.

The Entertainment Commission's own analysis of the situation is that the results of their efforts have been mixed due to the "variety of ways that city government has created obstacles in the form of liquor moratoriums, zoning restrictions, etc." (ER07, p. 3) The Commission has tried to decrease these obstacles, for example, by assisting in passing legislation in 2004 creating a new "One Night Event" permit which "enables responsible promoters to hold events in alternative spaces that are safe and meet city code requirements." A promoter renting a venue, such as SBC Park or a vacant pier could obtain a one-time permit if the venue meets City code requirements, e.g., fire, building, etc., for an event. The Entertainment Commission issues the permit. "We work daily with neighborhood groups and individual residents toward finding a greater appreciation of the value of hospitality, entertainment, and nightlife in their communities."(ER07, p. 4).

Recently the Commission's Executive/Legislative Committee has been meeting with the Planning Department on the rezoning of the Eastern neighborhoods to allow entertainment venues. This effort started five years ago with the Eastern Neighborhoods Community Planning Process to develop new zoning controls for the industrially zoned land in the Mission, SoMa, Showplace Square/Potrero, and Bayview/Hunters Point. For more information on this project, please see the San Francisco Planning Department's website at www.sfgov.org/planning.

Finding A.3.a. The Entertainment Commission has satisfied the objective of promoting the City's entertainment industry in only limited ways. The recent engagement of the Commission's Executive/Legislative Committee with the Planning Department on the rezoning of the Eastern neighborhoods to allow entertainment venues is an example of the kind of effort that would serve this purpose well.

- **Recommendation A.3.a.** The Entertainment Commission should continue such efforts as its recent involvement in the rezoning of parts of San Francisco for entertainment venues in order to meet this particular purpose.

Finding A.3.b. The Commission appears to be tying its efforts regarding the Eastern neighborhoods' rezoning to City approval of more Commission staff positions in the 2007-08 fiscal year.

- **Recommendation A.3.b:** The Commission should develop a "Plan B" for continuing some involvement in this very useful project without additional staffing.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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(4) The Commission will "promote the use of City facilities for cultural, entertainment, athletic and similar events that generate revenue for the City."

Individual Entertainment Commissioners appear to have promoted the use of City facilities in this manner to generate revenue for the City, but it was not clear to the Civil Grand Jury during its investigation that the Commission as an entity has engaged in this type of effort.

In its Effectiveness Report, the Commission cites -- without specifics -- four efforts it has made to generate revenue at the following facilities: Bill Graham Civic Auditorium, municipal piers (working with the Port Commission), Fisherman's Wharf, and Treasure Island (ER07, p. 4).

One commissioner reported to the Civil Grand Jury that after years of poor management by a private management company, the management responsibility of Bill Graham Civic Auditorium is up for bid by other outside companies. However, this commissioner's opinion is that the City is resistant to letting the Entertainment Commission get involved. If accurate, this is not consistent with the claim that the Commission staff has been "heavily involved with the increased use of the Bill Graham Civic Auditorium." (ER07, p. 4).

Finding A.4.a. The Entertainment Commission has had limited success in achieving the purpose of promoting events in City-owned facilities that increase City revenue.

- **Recommendation A.4.a.** The Civil Grand Jury strongly urges the Commission to address how it can better promote the use of City facilities to generate revenue. The Commission should formulate its goals for promotion of entertainment use of City facilities and state these goals in its next annual report. It should then follow through in the following years' and successive reports assessing the success or failure of such efforts.

Finding A.4.b. Many event spaces are under the scheduling control of the Port of San Francisco or the Parks & Recreation Department, rather than the Entertainment Commission.

- **Recommendation A. 4. b.** The Entertainment Commission should undertake better communication and coordination with other City departments to promote the entertainment use of revenue-generating City facilities.

RESPONSE REQUIRED FROM:	Entertainment Commission City Administrator (60 days)
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(5) The Commission will "foster harm reduction policies, including but not limited to reduction of risks from substance abuse, hearing protection, heat exhaustion, and relevant health and safety measures."

When the Commission receives a complaint that a club is too noisy, the sound technician makes an unannounced visit to the Club to check the sound level, and if possible, talks to the complainants directly. If the sound level is illegally high, the sound technician contacts the police department requesting that it issue a citation. The San Francisco Police Department follows through as time permits, but issuing noise citations is not the Police Department's top priority.

In its *Effectiveness Report 2007* (at pp. 4-5), the Commission cites its work with the Office of Emergency Services to pass legislation in 2005 requiring events and venues of 500 or more patrons to have an emergency medical plan in place to ensure the highest levels of public safety (BOS Ordinance #051382). The Commission also commends the staff's effort to advise permit holders of City regulations requiring free water and earplugs in fixed place venues with capacity of over 500 patrons (Police Code section 1060.28).

Finding A.5. The Commission is clearly interested in fostering harm reduction policies and has made some effort in that regard.

- **Recommendation A.5.** The Civil Grand Jury encourages the Commission to continue and expand its efforts in fostering harm reduction policies among entertainment venues.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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(6) The Commission will "develop and recommend to the Mayor and Board of Supervisors 'good neighbor policies' that appropriately balance the cultural, economic, employment and other benefits of a vibrant entertainment industry with the needs of residents and businesses in the vicinity of entertainment venues."

The Commission adopted a "good neighbor policy" on April 14, 2004. A statement of the policy is given to all club owners who apply for a Place of Entertainment (POE) permit. However, it is unclear whether the Commission has enforcement authority if a club owner does not comply with the good neighbor policy. At least one member of the Police Department voiced his opinion to the Civil Grand Jury that the good neighbor policy is a sham, generally because the Commission has no teeth to enforce it. Certainly, the number of complaints about entertainment venues at the Commission's twice-monthly hearings suggests that the good neighbor policy is of questionable effectiveness.

Finding A.6. While the existence of the "good neighbor policy" is a positive achievement, the Entertainment Commission's ability to enforce the policy has been limited.

- **Recommendation A.6.** Citation authority would help ensure observance of the good

neighbor policy. The granting of such citation authority to members of the Entertainment Commission staff should be given serious consideration by the Board of Supervisors.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days) Board of Supervisors (90 days)
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(7) The Commission will "mediate disputes between persons affected by cultural, entertainment, athletic and similar events and establishments, and the organizers of such events and operators of such establishments."

The Executive Director and Deputy Executive Director appear to spend some substantial time on such mediation efforts, but if the Commission has no enforcement authority, the only thing that will make a difference is the goodwill of the club owners and venue operators toward their residential neighbors. When such goodwill is not on display, the San Francisco Police Department whose priorities are focused on more serious crime, is the entity called in to mediate. Indeed, the Commission's *Effectiveness Report 2007* states it thus:

At the inception of the Entertainment Commission, it was determined that enforcement of all laws would remain the duty of the SFPD. In that way, they remain an integral part of any solution and positive outcome. Simply, the commission has become an effective intermediary and is able to find solutions that work. (ER07, p. 5)

The San Francisco Police Department does not see this matter in the same positive light. The homicide outside a San Francisco nightclub, Boondock Bay, on April 28, 2007, illustrates too well how difficult it is to draw the line between the Commission's responsibilities and those of the San Francisco Police Department.

On February 13, 2007, a San Francisco Police Department Captain convened a meeting in his office of the Entertainment Commission's Executive Director and Deputy Director, one of his officers, and a Deputy City Attorney for the purpose of discussing ongoing criminal activity occurring at four nightclubs in that district that had received Place of Entertainment permits from the Entertainment Commission. When the Captain heard nothing back from the Commission following this meeting, he wrote a letter to the Executive Director on March 23, 2007, outlining the problems, recalling the February 13 meeting, and stating: "I am requesting that formal action be taken for each of the below incidents. Each of these incidents is serious and put patrons and the community in jeopardy." (Letter quoted with permission.) On April 28, 2007, a young man was shot to death outside one of the clubs cited in the Captain's letter, Boondock Bay. In a follow-up article in the San Francisco Chronicle on May 1, 2007, Jaxon Van Derbeken wrote:

Bob Davis, executive director for the city's Entertainment Commission, said the initial complaint by the police was investigated, but no action was taken by his agency on the

advice of City Attorney Dennis Herrera's office. A spokesman for the city attorney declined comment.... Davis said he learned only last week [the last week of April] of the follow-up letter sent by police in March.

In its investigation, the Civil Grand Jury found that the Commission staff believed it could not take any action without first receiving police incident reports and they never were received. Further, it is the assertion of Commission staff that such a letter from a police captain cannot even be brought to the attention of the Commissioners unless, and until, the incident reports backing them up are received. Therefore, having received no incident reports, no further action was taken. The Captain states emphatically that no such request for incident reports was ever made to him by the Entertainment Commission.

Assuming that everyone concerned is telling the truth as s/he sees it and as s/he recalls events, and assuming further that this is simply one example of miscommunication out of many between the Entertainment Commission and the San Francisco Police Department, the fact remains that a man died outside a nightclub on April 28. The nightclub had been the scene of numerous previous criminal incidents and was sufficiently "on the radar" of the local police to prompt them to request on February 13, **eleven weeks before** the fatal shooting, that the Entertainment Commission take formal action. The Commission's staff response that the file was incomplete, or that the letter was not received, or that no procedures were in place to even tell the Commissioners about the situation to this jury does not constitute an acceptable response. More is required of our public servants.

At the same time, the Commission touts in its *Effectiveness Report 2007*: "The Entertainment Commission has been successful in mediation in every neighborhood in the city.... Positive outcomes are reached when staff is able to connect venue owners and managers with neighbors and police officers in a working, ongoing relationship." (ER07, p. 5). A homicide is not a positive outcome.

Further, in this regard, another Captain of the San Francisco Police Department has advised the Civil Grand Jury that he has faxed incident reports from his district relating to permitted nightclubs, to the attention of the Entertainment Commission, in twice-monthly batches since at least mid-February 2007. He has been recently advised that the Commission staff has not received these faxed reports.

Finding A.7.a. The Commission's record on mediating disputes between persons affected by entertainment events and the organizers of those events is not what it should be due at least in part to the communication difficulties between the Commission and the San Francisco Police Department.

- **Recommendation A.7.a.** The Entertainment Commission and the San Francisco Police Department must develop more effective means of communication.

Finding A.7.b. The Commission does not follow its standard office procedures for processing

incoming mail and faxes, transmitting them to the attention of the Commission, and, after action, appropriately filing them.

- **Recommendation A.7.b.1.** So that a letter of such importance will never again be mislaid for a month, the Entertainment Commission must develop office procedures so that letters and faxes that have been sent are actually received, accounted for, read, acted upon, and filed.
- **Recommendation A.7.b.2.** The staff of the Entertainment Commission must, as a matter of standard operating procedure, bring such important correspondence to the attention of the Entertainment Commissioners promptly without waiting for backup police reports.
- **Recommendation A.7.b.3.** The San Francisco Police Department must submit incident reports to the Entertainment Commission as a matter of course any time they request action by the Commission against venues with Place of Entertainment permits. The practice of automatic delivery of police incident reports related to permitted clubs to the Entertainment Commission is a practice that should be adopted widely in the San Francisco Police Department.

RESPONSE REQUIRED FROM:	Entertainment Commission San Francisco Police Department (60 days)
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(8) The Commission will "assume responsibility from the Police Department for issuing entertainment-related permits."

The Commission issues Place of Entertainment (POE) permits to nightclubs, and has done so since January 2004 when they completed the transition from the San Francisco Police Department Permit Section (ER07, p. 5). Nightclubs, however, represent a very limited portion of the "entertainment-related permits" issued in the city of San Francisco, a fact not noted in the Commission's *Effectiveness Report 2007* (ER07, p.5).

Finding A.8. In its daily operations, the Entertainment Commission issues Place of Entertainment permits to nightclubs and has not assumed responsibility for issuing all entertainment-related permits.

- **Recommendation A.8.** The Administrative Code section cited should be changed to reflect the greatly reduced permit issuance responsibility that is the reality of the

* The Parks & Recreation Department issues thousands of permits annually for events at Marina Green, Union Square, Coit Tower, Civic Center Plaza, Justin Herman Plaza, picnics in Golden Gate Park with more than 25 people attending, among many others. The San Francisco Police Department issues street closing permits when required for events such as street fairs.

Entertainment Commission's work.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days) Board of Supervisors (90 days)
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(9) The Commission will "plan and coordinate City services for major events for which there is no recognized or adequate organizer or promoter, such as Halloween bacchanalia in the Castro district and New Year's Eve festivities."

Despite this sensible and straightforward policy, this Entertainment Commission objective has not been realized.

For reasons that the Civil Grand Jury was unable to discover during its extensive investigation, the Mayor's office took over the planning and supervision of the Halloween celebration in the Castro in October 2006. There was at least one shooting and curiously unpublicized reports of sexual assaults. The reported lack of coordination of the San Francisco Police Department presence at the event did not help the situation. Now, City leaders are discussing moving the Halloween party to the waterfront (Pier 30-32) or the parking lot used by SBC Park. The Entertainment Commission is being included in these discussions (San Francisco Chronicle, April 20, 2007, B5, SF Bay Guardian, April 18-24, 2007, p. 10).

The Commission's Effectiveness Report 2007 makes only one statement about this objective: "The Entertainment Commission has taken responsibility for 'Halloween in the Castro' since its inception in 2003."

Finding A.9. The Commission's statement is inaccurate. The Commission was involved in the Halloween Party in 2003, 2004, and 2005, but the party was managed solely by the Mayor's office in 2006.

- **Recommendation A.9.** The Entertainment Commission should be involved in planning and coordinating the City's Halloween party, among other major non-sponsored entertainment events, as outlined in Administrative Code sec. 90.4(h).

RESPONSE REQUIRED FROM:	Entertainment Commission The Mayor (60 days)
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(10) The Commission will "provide information regarding venues and services appropriate for conducting events and functions ancillary to conventions held within the City, including conventions at the Moscone Convention Center."

An Entertainment Commissioner has floated the idea of creating a "one-stop shopping" website where the interested event organizer would input information about date of event, its size, and other specifications and then be supplied with a list of possible San Francisco venues. Similar private websites (e.g., www.herecomestheguide.com) do exist and a link could be established to the event organizers from the Entertainment Commission's website.

The Commission cites working with the Convention and Visitors Bureau "to keep them informed of new venues and send potential clients to their facilities," and describes itself as the first sponsoring agency of the San Francisco International Arts Festival, and a sponsor of showcases of San Francisco music at a conference in Austin, Texas, and an upcoming music conference in New York City.

Finding A. 10. Although the Civil Grand Jury was told that one commissioner had worked toward developing a "one-stop shopping document," we were unable to obtain a copy of this document.

- **Recommendation A. 10.** The Entertainment Commission should develop a one-stop shopping program and plan for entertainment venues.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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B. COMMISSION REPORTS: Effectiveness, Annual, Fee Analysis

One way to look at the development of any city agency over time is to read the various reports that it has issued as required by law. In this way, an examiner can assess the appropriateness of an agency's goals, and can then measure the execution of those goals by action, and the plans to accomplish those goals in the future. In the case of the Entertainment Commission, San Francisco Administrative Code, ch. 90 requires the filing of an effectiveness report, an annual report, and a fee analysis report.

Numerous verbal requests to Commission staff members and commissioners left the Civil Grand Jury with substantial doubt as to the existence of any reports -- effectiveness, annual, or fee analysis. Finally, in response to the Civil Grand Jury's formal written request dated February 9, 2007, the Civil Grand Jury received three annual reports on February 23, 2007. No effectiveness report was included in this submission. The effectiveness report was finally received by the Civil Grand Jury on May 2, 2007. No fee analysis was ever received.

Finding B. 1. The kinds of reports required in the Administrative Code, Chapter 90, are a standard mechanism in government and business for reflecting the history of the organization, its goals and its achievements.

Finding B.2.a. The three annual reports (2003-04, 2004-05, 2005-06, and the effectiveness report (*Effectiveness Report 2007*) were produced in the last few months after the Civil Grand Jury made repeated requests for them to the Entertainment Commission.

Finding B.2.b. Producing reports in an untimely manner and without thorough consideration, obviates the value of reporting, i.e., to show a thoughtful, historical analysis of the evolution of the Commission and to allow thoughtful consideration of how it will continue to evolve in the future.

- **Recommendation B.1.** The Entertainment Commission should submit to the Mayor and Board of Supervisors the annual report by March 1 each year, as required in Administrative Code, chapter 90.
- **Recommendation B.2.** The Entertainment Commission should submit to the Mayor and the Board of Supervisors its Effectiveness Report every five years at a minimum. The next Effectiveness Report is due on or before May 2012, as required in Administrative Code, chapter 90, sec. 90.8.

(1) Effectiveness Report:

In the case of the Entertainment Commission, San Francisco Administrative Code, sec. 90.4(i) calls for the following:

Prepare and submit to the Mayor and the Board of Supervisors a report analyzing the commission's effectiveness in advancing the policies specified in Section 90.1 and the laws governing entertainment-related permits, and making recommendations related thereto. The commission shall submit the report to the Mayor and Board of Supervisors within one year of effective date of this Chapter, and not less than once every five years thereafter.

The effective date of Chapter 90 of the Administrative Code was July 26, 2002; therefore, the first Effectiveness Report was due by July 26, 2003. The second Effectiveness Report would have been due by July 26, 2008. In fact, the first ever Effectiveness Report was submitted to the Civil Grand Jury on May 2, 2007, and was entitled: *Effectiveness Report 2007*. The next one will be due by May 2012.

The *Effectiveness Report 2007* begins with a very true statement: "While the Commission continues to devise systems to measure the impact of its work, there is no roadmap for the department nor clear paths to simple success."

What is not stated is that when there is no roadmap, a unified vision and strong leadership become even more crucial to the success of the enterprise.

Finding B.3.: The Effectiveness Report is the appropriate document in which the Entertainment Commission should state its goals and the means by which it shall achieve those goals.

- **Recommendation B.3.:** In preparation for filing its next Effectiveness Report, the Entertainment Commission should immediately commence a program to identify its goals, the means by which it plans to achieve its goals, and a way to measure that achievement.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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(2) Annual Reports:

In addition to the effectiveness reports, the Commission is obliged to submit an annual report to the Board of Supervisors and Mayor by March 1st of each year regarding its activities during the previous year. (Admin. Code, Ch. 90, sec. 90.8).

Further, the San Francisco Charter, sec. 4.102, which sets forth the powers and duties of City commissions within the executive branch, provides that each commission shall:

...

2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;...

On February 23, 2007, three annual reports covering 2003-04, 2004-05, and 2005-06 were delivered to the Civil Grand Jury's office. Close perusal of these reports has created more confusion than clarity about the work of the Entertainment Commission during those years. They bear no submission dates to the Mayor and Board of Supervisors. At least one Entertainment Commissioner had no knowledge of the existence of these reports a month after their submission to the Civil Grand Jury.

On May 24, 2007, the Civil Grand Jury was advised by the Entertainment Commission's staff in an email that

while the language in section 90.8 states that the annual report is due in March (three months after the New Year), the reports that we have done to date have been based on the fiscal year not the calendar year. I reviewed this matter with our city attorney ...because I felt that the report should reflect the year end close of business, budget, etc. She agreed. I then spoke with ...[the Commission President]... and he also agreed that the submittal date should be three months after the end of the fiscal year (September). The city attorney's office can make that change to the code.

The reports appear to have been written hurriedly resulting in the exclusion of important

details. One example from the *Highlights* section of the 2005-06 report, p. 5, suffices: "The Commission issued a total ___ of one-time events permits and ___ fixed location permits." The actual numbers of permits did not make their way into the report.

More troubling is the fact that the Goals section at the end of each report which outlines the goals for the coming fiscal year shows no follow-up in the next year's report.

As to the required Annual Statement of Purpose, the Entertainment Commission's staff has advised the Civil Grand Jury that it is a part of the annual reports. A review of those three reports does not show any specific section of any report entitled: "Annual Statement of Purpose."

Finding B.4. The Entertainment Commission has not taken seriously its mandate to write timely annual reports which include an Annual Statement of Purpose, as required by law, thus losing an opportunity to develop and expand its collective vision of what the Commission might be and do.

- **Recommendation B.4.a.** The Entertainment Commission should submit to the Mayor and the Board of Supervisors annual reports which revisit its Annual Statement of Purpose, and which serve to honestly address the accomplishments of the Commission in the year past and describe challenges and goals in the year ahead.
- **Recommendation B.4.b.** The Entertainment Commission commissioners should be given a draft of each year's annual report and be allowed sufficient time to provide input and editorial suggestions for the final draft so that it is a document reflecting the Commissioners' collective viewpoints about what the Commission should be.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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(3) Fee Analysis:

In addition to the effectiveness reports, and the annual reports, the Commission shall submit

a report to the Mayor and Board of Supervisors analyzing the fee revenue generated from the issuance, renewal and processing of applications for entertainment-related permits, and proposing fees therefor that will cover the annual operating costs of the commission. Within three years of the operative date of this Article [i.e., 7/26/2002], the Board of Supervisors shall establish fees for entertainment-related permits at levels sufficient to cover the estimated annual operating costs of the commission. (Admin. Code, ch. 90, sec. 90.9)

The Civil Grand Jury's formal request for all the reports, mandated by law, received the following response about the fee analysis report: "Please see http://www.sfgov.org/site/controller_page.asp?id=1820 for budget analysis including fees." This website address leads one to the City budget for several fiscal years. For 2006-07, this is a 296-

page document with the Entertainment Commission's budget buried on a few lines deep within the document. There is no analysis of the Entertainment Commission's fee revenue.

More to the point regarding Entertainment Commission budget analysis, the City Administrator reported in a letter to the Civil Grand Jury dated January 30, 2007, the following:

Budget:

The Entertainment Commission's revenues have never exceeded their expenses for any fiscal year. For this current fiscal year, the Entertainment Commission's revenue budget was \$520,000. The actual line item in the budget is \$730,000, resulting in a general fund subsidy of \$210,000.

This could be a very useful opening to a budget analysis by the Entertainment Commission with an ensuing discussion regarding how it might become self-sustaining as required in the Code.

There is a perception on the part of Commissioners and staff of the Entertainment Commission that too much of the Commission's budget is paid to the San Francisco Police Department to defray the cost of policing relative to the entertainment industry and that if not for these payments, the Entertainment Commission would be self-sustaining.

Finding B.5. The Civil Grand Jury has not received a fee analysis report from the Entertainment Commission and concludes from this that none has ever been produced.

- **Recommendation B.5.** The Entertainment Commission should produce a fee analysis report as required by law and in it should explain how it plans to "establish fees for entertainment-related permits at levels sufficient to cover the estimated annual operating costs of the commission."

RESPONSE REQUIRED FROM:	Entertainment Commission City Administrator (60 days)
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C. COMMISSION STAFF PERFORMANCE: Job Descriptions, Annual Reviews, Executive Director, Staff Compensation, Additional Staffing

1) Job Descriptions and Annual Reviews:

Administrative Code, chapter 90 provides rudimentary job descriptions for three of the four staff members of the Entertainment Commission: the Executive Director (sec. 90.5), Permit Administrators, and the Sound Technician (sec. 90.7).

Currently, the Deputy Executive Director and the Secretary appear to share the responsibilities of a permit administrator, in addition to other duties, but the staff did not have full job descriptions of each of the four current staffers readily at hand when requested by the

Civil Grand Jury.

Annual performance reviews of these four staff members would give the Commission a sense of what work is being done, how well it is being done, and what goals/objectives exist for each staff member for the coming year. This in turn would assist the Commissioners and Executive Director in developing an overall work plan for the Commission for the coming year. That in turn would assist in the creation of the required Effectiveness, Annual, and Fee Analysis Reports described above.

On February 6, 2007, in a closed session at the end of the Entertainment Commission's regularly scheduled hearing, the Commissioners engaged in what may have been the first-ever performance review of the Executive Director. There are conflicting recollections as to whether such a review had ever taken place.

Further, the Commission is currently requesting funding to hire more staff members. It is difficult to justify the need for additional staff if the job descriptions and performance reviews of the current staff members are not full, complete, and up-to-date.

In most organizations, compensation is tied to performance. A performance review is usually the first step in determining whether a merit increase in compensation is appropriate and how much it should be. This is in fact required for the Executive Director under the Memorandum of Understanding between the City and County of San Francisco and the Municipal Executives Association for July 1, 2006 - June 30, 2009, Article III.B., para. 87:

Eligibility for payments under this section during fiscal years 2007-2008 and 2008-09 shall be based upon Appointing Officer certification of the following items:

-The employee has received a performance appraisal (evaluating performance) and a performance plan (containing objectives for future performance) during the fiscal year immediately preceding the fiscal year during which payments will be made.

Effective organizations will have up-to-date job descriptions and annual performance reviews. These did not appear to exist for the four staff members of the Entertainment Commission when the Civil Grand Jury began to ask questions about such reviews in the fall of 2006. It was not until April 12, 2007, that the Entertainment Commission provided job descriptions to the Civil Grand Jury. These were generic job descriptions provided by the City's Department of Human Resources to the Entertainment Commission's Executive Director.

Finding C.1.a. While the generic job descriptions obtained from the Department of Human Resources are somewhat helpful, they lack specificity.

Finding C.1.b. Because the Civil Grand Jury was told by some Commission staff that performance reviews are done regularly, and by other Commission staff that they are not done at all, it is questionable whether performance reviews have ever been done.

- **Recommendation C.1.a.** The Entertainment Commission should create full, reality-based job descriptions for each of its staff.
- **Recommendation C.1.b.** The Entertainment Commission's Executive Director should provide annual written performance reviews for the three staffers who report to him.

RESPONSE REQUIRED FROM:	Entertainment Commission Department of Human Resources City Administrator (60 days)
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2) Executive Director:

The Civil Grand Jury received conflicting answers when it inquired during interviews: To whom does the Executive Director report? For example, while the job description describes the Executive Director as reporting to the Entertainment Commission (i.e., the Commission President), there is other evidence suggesting that the Executive Director may report to the City Administrator, the Mayor, and/or the Commissioners.

Not only are the lines of reporting fuzzy, but the exact parameters of the Executive Director's job description were often vaguely described in interviews with the Commissioners. The Executive Director must be wise in the ways of City government generally, and his own seven Commissioners in particular. The Executive Director must know about the San Francisco entertainment industry, be an advocate and a public relations expert pushing the entertainment agenda, and yet be a peace-and-quiet-loving resident of the City. This person must be an office manager who can coax the best work from a small staff. This person must be a visionary, a negotiator, a conciliator, a politician. It is a tall order, but leadership by such a person will greatly help the Entertainment Commission fulfill its potential in the years ahead.

Finding C.2. Many of the Commissioners, and the Executive Director himself, are unclear as to the exact lines of authority in terms of supervision of the Executive Director, and the same lack of clarity applies to the job requirements of the Executive Director.

- **Recommendation C.2.** It must be determined to whom the Executive Director of the Entertainment Commission reports, and how and when such reporting will take place, and just what this position is to be held accountable for doing.

Finding C.3. The Civil Grand Jury was able to verify only one performance review of the Executive Director in the Commission's four year history.

- **Recommendation C.3.** The Civil Grand Jury recommends that regular performance reviews of the Commission's Executive Director take place. The review should be conducted by whomever is determined to be the supervisor of the Executive Director.

RESPONSE REQUIRED FROM:	Entertainment Commission City Administrator The Mayor (60 days)
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3) Staff Compensation:

Finding C.4. Despite the apparent lack of formal evaluation, substantial merit raises have been given to some members of the Commission's staff during the four years of the Commission's existence. Yet the Commissioners appear to be unaware of the amount of compensation of staff members.

- **Recommendation C.4.a.** Compensation should be tied to performance for all four staff members of the Entertainment Commission.
- **Recommendation C.4.b.** Commissioners' input should be sought on the performance and proposed compensation increases of Entertainment Commission staff.

RESPONSE REQUIRED FROM:	Entertainment Commission The Mayor Department of Human Resources (60 days)
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4) Additional Staffing:

The perception of most commissioners on the Entertainment Commission is that they need more staff. Yet, it is not clear to them just what current staffers are doing or how they are doing it. The one exception is the sound technician who is universally perceived as doing a good job and being overburdened by the size of the job.

Finding C.5. It is hard to logically argue for staff augmentation unless one is absolutely sure of what current staffers are doing and how well they are performing.

- **Recommendation C.5.** Task tracking for staff should be implemented and the commissioners should be advised of the results of such tracking on a regular basis.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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D. COMMUNICATION AND PROCEDURES: Between the Entertainment Commission and the Entertainment Industry and Other Departments

So far this report has focused mainly on issues related to the Code-mandated running of the Entertainment Commission. The constant theme has been that if the Commission would do the required reports, follow sound business practices regarding staff job descriptions and performance reviews, and evaluate its own effectiveness with regard to its ten stated mission objectives in a very specific and detailed way, the Commission itself would be much farther down the path to creating a coherent and cohesive vision of its own future. Numerous interviews conducted by the Civil Grand Jury failed to reveal such a vision.

There are other issues that the Entertainment Commission must face and that do not track the Administrative Code regulating the Commission. A number of these issues have only become ripe for discussion after several years of Commission history.

The Entertainment Commission came into being in 2002-03 with a great deal of enthusiasm and a desire to engage in a wide spectrum of activities to make San Francisco a more entertainment-friendly city while also recognizing that in a city of only 49 square miles, entertainment venues and residences may be uncomfortably close and that goodwill must be fostered by all sides to keep the City both a wonderful place to live and a wonderful place to play.

The initial enthusiasm has been tempered by a number of inhibiting factors: 1) communication issues; 2) expectations of commissioners; 3) involvement of the City Attorney; 4) the Commission's authority to suspend or revoke permits; and 5) vision and leadership. These factors will be considered in order.

1) Communication:

Communication is a huge issue on many levels with the Entertainment Commission. The standardization of conditions clubs must meet to receive Place of Entertainment permits that was envisioned in 1999-2000 when the Civil Grand Jury wrote its report (*Club Permits*) has not quite come about. Then the Civil Grand Jury wrote: "As one owner put it, the police are constantly presenting club owners with a 'moving target' when it comes to permit conditions."(p. 6).

At the October 17, 2006 Entertainment Commission hearing, according to the minutes, an expediter representing the owner of several clubs, indicated that "[he felt a] great deal of anger and frustration at the bureaucracy in the city and the way they address the industry as a whole and the business of the Entertainment Commission." He added "the Health and Fire departments were difficult to get responses out [of] as well as consistent responses." (Minutes of the EC Hearing, 10/17/06, p. 2). Typical of the communication problems, in March 2007, a San Francisco attorney who represents a nightclub owner expressed much the same feeling of frustration with the Entertainment Commission regarding a lack of standardized procedures that should be publicized to all business owners. In essence, these are all complaints about the lack of communication from the Commission.

Another example of a communication problem is that A Memorandum of Understanding should exist with at least the Port of San Francisco (the current MOU expired June 30, 2005, and a proposed new one dated February 1, 2007 has not been signed at this writing – June 15, 2007). Other departments with which the Entertainment Commission must work, e.g., the Fire Department and the Police Department, have been characterized to the Civil Grand Jury as "sister departments" with which the Entertainment Commission does not need Memoranda of Understanding. However, these are sisters who seem to be deaf to one another.

Finding D.1.a. Some club owners who apply to the Entertainment Commission for POE permits feel there is a lack of timely communication regarding meeting legally necessary conditions.

- **Recommendation D.1.a.** The Entertainment Commission must improve its record of communicating with club-owner applicants for POE permits.

Finding D.1.b. There are communication problems between the Entertainment Commission and the San Francisco Police Department (see Discussion/Findings/ Recommendations A.7.a-b at pp. 14-15). But this is not the only major City department or agency with which the Entertainment Commission routinely deals and with which it must communicate effectively.

- **Recommendation D.1.b.** A current Memorandum of Understanding should exist with at least the Port of San Francisco. If an MOU with other City departments is indeed inappropriate, some formal mechanism should be created to enhance the communication between these City departments and the Entertainment Commission.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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2) Commissioners: Training and Duties

The Civil Grand Jury found in interview after interview that the Commissioners' expectations regarding their own personal involvement in the running of the Entertainment Commission was quite varied.

Finding D.2.a. Other than showing up for twice-monthly hearings, there seemed to be little agreement on what constituted reasonable expectations of an Entertainment Commissioner.

- **Recommendation D.2.a.** Entertainment Commissioners should agree as to what their duties and responsibilities are.

Finding D.2.b. Commissioners do not understand their institutional relationship to the Executive Director. Commissioners do not know the basic requirements of the Commission they serve (e.g., that there should be annual reports) and they have not seen or read basic required documents from the Commission (e.g., annual reports, effectiveness report, fee analysis report). They are given an informational notebook when they first join the Commission but the Civil Grand Jury found that notebook to be of limited usefulness.

- **Recommendation D.2.b.** Entertainment Commissioners should be aware of the basic required tasks of the Commission, should read basic required documents and offer input on their final drafting. They should be better trained from the beginning in the duties and responsibilities of an Entertainment Commissioner. They should receive more regular communication (perhaps via email) from Commission staff on Commission-related developments than they currently receive via the twice-monthly hearings.

RESPONSE REQUIRED FROM:	Entertainment Commission (60 days)
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3) City Attorney:

The absence of legal counsel has been particularly problematic in Entertainment Commission hearings where questions as to law, powers and responsibilities, and proper procedure frequently arise. The discussions that ensue among the Commissioners, none of whom have legal training, can and often do take on a surreal aspect. Such behavior does not project an image of competence and professionalism for the Commission.

Finding D.3. The Entertainment Commission deals with many legal and procedural issues during its public hearings that current Commissioners are ill-equipped to decide.

- **Recommendation D.3.** The Entertainment Commission should have its assigned Deputy City Attorney present at all public hearings.

4) Authority and Enforcement Powers:

The Entertainment Commission has powers and duties as outlined in Administrative Code, ch. 90, sec. 90.4. The record is mixed as to how effectively the Commission has exercised these powers and duties during its existence. Of particular interest is the reality connected to sec. 90.4 (c) which states that the Commission has the following powers and duties: "(c) Suspend, revoke or withdraw entertainment-related permits in accordance with the law and regulations governing such permits."

The Entertainment Commission has exercised this power three times during its lifetime, in April 2005, with the 60-day permit suspension of Kelly's Mission Rock in China Basin, in March 2007 with the 30-day suspension of Zebra Lounge, and in June 2007 with the 30-day suspension of Club Six. While suspending or revoking a Place of Entertainment permit should never be an easy matter because it can and often does threaten the ongoing viability of a business, there has been an unexplained reluctance on the part of the Entertainment Commission to take any similar action against other clubs. That reluctance may be receding given the recent Zebra Lounge and Club Six suspensions.

In this investigation of the Entertainment Commission, an oft-used statement has been "the commission has no teeth." This suggests that the Commission is not able, or is not willing, to take formal punitive action against nightclubs which have not behaved like good neighbors. Since sec. 90.4 (c) explicitly states that the Commission can do just that, and they have done so at least three times during their history, what other meaning might be assigned to the problem of "no teeth?" Two thoughts occur:

- The Entertainment Commission does not have staff empowered to issue citations and so the Commission relies on the Police Department and the Fire Department to issue citations to wrongdoing nightclub owners. Should the Commission staffers have citation authority? Responses have been mixed. One point of view is that the Police Department in particular has been reluctant to devote time to such offenses because it has serious crimes to investigate. However, if the Commission staff are given citation authority, the police may consider themselves totally relieved of any responsibility to cite offending club owners. The other point of view is that reasonableness simply is not enough to make club owners behave like good neighbors and that it would greatly assist the Commission to enforce the good neighbor policy if their staff could issue citations.
- Perhaps the pendulum has swung too far in the opposite direction. The Entertainment Commission was created because there was a perception that the police behaved prejudicially in favor of residents and created a hostile environment for club owners. There is an argument currently that the Commission is too favorable in its determinations toward the entertainment industry to the detriment of residents. If staffers do not have

citation authority and the police consider citing offending club owners as a low priority, this creates a more permissive business environment for club owners. And if this argument is true, then we now have the opposite problem to that described by the Civil Grand Jury in 1999-2000. The response to that argument is that with the recent suspensions of Zebra Lounge and Club Six, the Entertainment Commission may be finding its "teeth," although those particular clubs' transgressions seem to be extreme examples. As City Attorney Dennis Herrera stated in a San Francisco Examiner article on March 22, 2007, after the suspension of the Zebra Lounge, "It got to the point with respect to this particular club that it was everyone's belief that we had to hold this club accountable. It seemed like they weren't getting that they have to be a good neighbor."

Finding D.4.a. There is a widely held perception that the Entertainment Commission does not have legal enforcement powers despite Administrative Code's sec. 90.4 (c) specific grant of the power to "suspend, revoke or withdraw entertainment-related permits." Why this perception exists remains a mystery. It does however create a self-fulfilling prophecy: if you think you can't do something, you won't do it.

- **Recommendation D.4.a.** The Civil Grand Jury recommends that the Entertainment Commission be given the authority to cite permitted nightclub owners who break the law. Granting the power to issue such citations to the Entertainment Commission however must not stop the San Francisco Police Department, with its greater manpower and resources, from also issuing such citations.

As for the larger question, as to whether the Entertainment Commission has "teeth" or not, the Commission's suspension of Zebra Lounge on March 20, 2007, and of Club Six on June 5, 2007, may be the beginning of its greater use of its powers. It remains to be seen how much of the original vision reflected in the Administrative Code's chapter 90, written in 2002, is realistic in 2007 and beyond.

Finding D.4.b. The Civil Grand Jury is impressed with the recent suspension hearings of the Entertainment Commission for clubs with multiple violations of noise and health & safety laws.

- **Recommendation D.4.b.** The use of suspension and revocation powers given to the Entertainment Commission in Administrative Code, chapter 90, section 90.4(c) must be used to punish club owners with multiple violations, as well as serve as a deterrent for other potentially problematical entertainment venues.

RESPONSE REQUIRED FROM:	Entertainment Commission San Francisco Police Department (60 days)
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5) Vision and Leadership:

Currently there is a haphazardness about the way the Entertainment Commission office is run, how the twice-monthly hearings are conducted, and in the vision of the Commission as

reflected in the documents received only lately by the Civil Grand Jury. The Commissioners do not work well with one another and all feel that they get very little respect from other City departments and agencies, starting with the Mayor's office and working downward. As a consequence, there is a decided lack of a unified vision of what the Entertainment Commission could be and should be.

Finding D.5. The Entertainment Commission lacks the leadership needed to shape up the operation and motivate people to get along and get things done.

- **Recommendation D.5.a.** Someone at the Entertainment Commission has to take a leadership role. As the highest ranking, paid staff member of the Commission, this burden appropriately falls on the Executive Director
- **Recommendation D.5.b.** The Civil Grand Jury strongly recommends that the Entertainment Commission adopt term limits for its Commissioners. If each serves no more than two 4-year terms, incompatibility is less of a problem than in the current potentially endless situation.

RESPONSE REQUIRED FROM:	Entertainment Commission The Mayor (60 days) Board of Supervisors (90 days)
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VII. CONCLUSIONS

The San Francisco Entertainment Commission was created to solve problems. There was a perceived imbalance between the needs of residents in San Francisco and the needs of the entertainment industry to do business and provide entertainment for both residents and tourists. The pursuit of that balance informed the creation of Administrative Code, chapter 90. This report has explored the application of that part of the Code.

The biggest challenges faced by the Entertainment Commission can be summed up in two words: expectations and communication. The Entertainment Commission was expected to accomplish a great deal as outlined in the Code. Its greatest current strength lies in facilitating the granting of permits to club owners. Its greatest current weaknesses are twofold: 1) the Commission has been relatively ineffective in the enforcement aspect of its mandate; and 2) the Commission is not very proactive in promotion of entertainment (other than clubs) in San Francisco.

The Commission seems to be populated by Commissioners and staff who do care about doing a good job and this is an important key to future success. However, there needs to be a careful analysis of what the Entertainment Commission realistically can/should be in the current political and economic environment, and given its relatively small size. Then it must find the

leadership to move ahead.

The second challenge faced by the Entertainment Commission is no less daunting than the first. Communication is a problem at all levels. Written reports, as required under the Administrative Code, have not all been produced; the three annual reports that suddenly appeared in February, 2007, have significant deficiencies, as does the *Effectiveness Report 2007* which appeared in May, 2007. Without such formal communication, it is hard to know what the goals of the Commission are, or where the Commission stands in meeting those goals. Communication is a problem when Commissioners decide at Commission hearings that something will be done at the next hearing and then there is no follow-through. Communication is a problem when hearing minutes published on the website are so long delayed and written so poorly. Communication is a problem when the relations between the Police Department and the Commission are not working smoothly. Communication is a problem when the Mayor's office takes control of the Halloween party in the Castro (October 31, 2006) and no one seems to know why.

The ultimate goal here is to create and maintain a thriving and responsible entertainment industry in San Francisco. There has to be a plan that is followed and all the people involved in implementing the plan have to talk to one another. Turf battles have to be forgotten and good business practices have to be embraced. Someone has to take charge and make it happen.

TABLE OF RESPONSES REQUIRED

All Recommendations require responses from the Entertainment Commission within 60 days of issuance of the report. Some Recommendations require responses from other City departments (all of which have 60 days, except the Board of Supervisors, which has 90 days), as follows:

60-Day Response:

DEPARTMENTS AND OFFICIALS	RECOMMENDATIONS
San Francisco Police Department	A2a,b; A7b1-3; D4a,b
San Francisco Fire Department	A2a,b
City Administrator	A4a,b; B5; C1a,b; C2;C3
Mayor	A9; C2;C3;C4a,b; D5a,b
Department of Human Resources	C1a,b; C4a,b
Entertainment Commission	Respond to all Findings and Recommendations

90-Day Response:

Board of Supervisors	A6; A8; D5a,b
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INTERVIEWS WITH REPRESENTATIVES FROM:

City and County of San Francisco Board of Supervisors

City and County of San Francisco Citizens

City and County of San Francisco Entertainment Commission

City and County of San Francisco Fire Department

City and County of San Francisco Police Department

City and Country of San Francisco Recreation and Parks Department

San Francisco Late Night Coalition

CIVIL GRAND JURY REPORT AND RESPONSES:

Civil Grand Jury Report, "Club Permits" 1999-2000

REPORTS AND RESOURCES – CITY AND COUNTY OF SAN FRANCISCO:

Administrative Code 90

Charter of City and County of San Francisco Section 4.117

Draft of Hearing Procedures

Entertainment Commission's Good Neighbor Policy

Entertainment Commission Annual Reports 2003-04; 2004-05; 2005-06

Entertainment Commission Effectiveness Report 2007

Entertainment Commission Permit Applications and Forms

Letters from City Administrator's Office dated 1/17/07, 1/30/07

Letters from San Francisco Police Department dated 3/23/07; 5/1/07

Memorandum of Understanding between Entertainment Commission and Port of San Francisco dated 6/30/05

Memorandum of Understanding Draft between Entertainment Commission and Port of San Francisco, 2/1/07 (proposed)

Permit Fee Matrix

San Francisco Police Code Part 1 – Related Sections

San Francisco Police Code Part 2 – Related Sections

Scharod's Law – Board of Supervisors Ordinance #052182

RESOURCES – STATE OF CALIFORNIA:

Department of Alcoholic Beverage Control

NEWSPAPER ARTICLES AND PERIODICALS:

“A push for the right to party loudly in S.F.; Board of Supervisors will consider new, civilian commission,” by Joe Garofoli, San Francisco Chronicle, 7-1-02, p. B1.

“Nightclub supporters get glimmer of hope; Commission to oversee permit process,” by Joshunda Sanders, San Francisco Chronicle, 9-12-02, p. D1.

“S.F. seeks to rein in a night of true fright; More cops – and less liquor – for Castro's Halloween,” by Joe Garofoli, San Francisco Chronicle, 2-17-03, p. A1.

“In Brief/San Francisco; City Plans Strict Controls for Halloween Party,” Los Angeles Times, 10-18-03, p. B8.

“Angry Neighbors Battle to Rein in Mission Rock's Parties,” by Carolyn Jones, San Francisco Chronicle, 1-21-05, p. F3.

"2 permits suspended for Mission Rock club," by Charlie Goodyear, San Francisco Chronicle, 4-21-05, p. B4.

"Noisy China Basin club disciplined," by Charlie Goodyear, San Francisco Chronicle, 4-23-05, p. B2.

"Nightclub faces suspension over complaints," by Carolyn Jones, San Francisco Chronicle, 4-29-05, p. F3.

"Board Likely to Back Castro Bar Bias Finding," by Jason B. Johnson, San Francisco Chronicle, 6-9-05, p. B4.

"New Orleans Musicians May Come to S.F." by Aidin Vaziri, San Francisco Chronicle, 9-19-05, p. C1.

"Club Scene Grows Up" by Carolyne Zinko, San Francisco Chronicle, 12-2-05, p. A1.

"Condos prefer low-wattage nightlife" by Sanjay Bhatt, Seattle Times, 2-16-06, p. B1.

"Nighttime crowds spur more police for North Beach Patrol" by Sajid Farooq, San Francisco Chronicle, 9/1/06.

"Swells" by Catherine Bigelow, San Francisco Chronicle, 9/10/06, p. D6.

"7 shot at revel in Castro," by Meredith May, Cicero Estrella and Wyatt Buchanan, San Francisco Chronicle, 11-1-06, p. B-1.

"City suspends North Beach Club's permit" by Adam Martin, San Francisco Examiner, 3-22-07, 3:00 a.m.

"Zebra Loses a Stripe or Two" North Beach Aquarium, April 2007.

"Forum: Close clubs at 4 a.m., offer owners training" by Adam Martin, San Francisco Examiner, 4-14-07, 3:00 a.m.

"Bar wars" by J.B. Powell, San Francisco Bay Guardian, April 18-24, 2007, p. 11.

"Halloween Hell" by Sarah Phelan, Bay Area Guardian, April 18-24, 2007, p. 10.

"Halloween party might move to waterfront," by Wyatt Buchanan, San Francisco Chronicle, 4-20-07, p. B5.

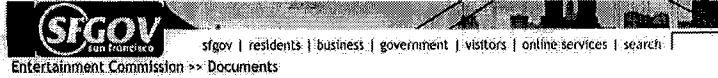
“City Planning on Moving Halloween Festivities to Waterfront,” by Andy Sywak, May 2007, p. 1.

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“Fury over Sound” by Steven T. Jones, San Francisco Bay Guardian Online, 5/26/07.

“Local Club Six not deep-sixed—yet” by Adam Martin, San Francisco Examiner, 6-7-07.

APPENDIX I

City and County of San Francisco
Entertainment Commission

Administrative Code, Chapter 90

- Sec. 90.1 Declaration of Policy.
- Sec. 90.2 Definitions.
- Sec. 90.3 Establishment of Entertainment Commission.
- Sec. 90.4 Powers and Duties of the Entertainment Commission.
- Sec. 90.5 Executive Director.
- Sec. 90.6 Permit Administrators.
- Sec. 90.7 Sound Technician.
- Sec. 90.8 Annual Reports.
- Sec. 90.9 Fees.

SEC. 90.1. DECLARATION OF POLICY.

It is the policy of the City and County of San Francisco to have a system of coordinated planning and permitting for cultural, entertainment, athletic and similar events and establishments throughout the City to promote such establishments and events for the economic and cultural enrichment of San Franciscans and visitors to San Francisco, and to celebrate the diverse communities within San Francisco. To facilitate this goal it is the policy of the City to have the San Francisco Entertainment Commission: (1) assist the organizers and operators of cultural, entertainment, athletic and similar events and establishments to apply for, and obtain from the commission and other City departments when the applicant satisfies the requirements therefor, all necessary permits from the City; (2) promote the responsible conduct and operation of such events and establishments; (3) promote the development of a vibrant entertainment and late-night entertainment industry within the City; (4) promote the use of City facilities for cultural, entertainment, athletic and similar events that generate revenue for the City; (5) foster harm reduction policies, including but not limited to reduction of risks from substance use, hearing protection, heat exhaustion, and relevant health and safety measures; (6) develop and recommend to the Mayor and Board of Supervisors "good neighbor policies" that appropriately balance the cultural, economic, employment and other benefits of a vibrant entertainment and late-night entertainment industry with the needs of residents and businesses in the vicinity of entertainment venues; (7) mediate disputes between persons affected by cultural, entertainment, athletic and similar events and establishments, and the organizers of such events and operators of such establishments; (8) assume responsibility from the Police Department for issuing entertainment-related permits; (9) plan and coordinate City services for major events or which there is no recognized or adequate organizer or promoter, such as Halloween bacchanalia in the Castro district and New Year's Eve festivities; and (10) provide information regarding venues and services appropriate for conducting events and functions ancillary to conventions held within the City, including conventions at the Moscone Convention Center. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.2. DEFINITIONS.

Except as the context may otherwise require, the terms used in this Chapter shall have the following meanings:

- (a) "City" means the City and County of San Francisco.
- (b) "Entertainment Commission" and "commission" mean the San Francisco Entertainment Commission, and includes where appropriate the Executive Director, Permit Administrators, Sound Technician and other staff designated by the Entertainment Commission to perform the functions of the commission specified by the Charter, this Chapter, Articles 1, 15, 15.1, and 15.2 of the San Francisco Police Code, or other law.
- (c) "Entertainment-related permits" include the following:
 - (i) Loudspeaker permits;
 - (ii) Itinerant show permits;
 - (iii) Dance hall keepers permits;
 - (iv) Place of entertainment permits;
 - (v) After hours permits; and
 - (vi) Licenses for amusements.
- (d) "Executive Director" means the Executive Director of the San Francisco Entertainment Commission.
- (e) "Permit Administrators" means the Permit Administrators of the San Francisco Entertainment Commission.
- (f) "Sound Technician" means the Sound Technician(s) of the San Francisco Entertainment Commission. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.3. ESTABLISHMENT OF ENTERTAINMENT COMMISSION.

- (a) **Establishment of Commission.** There is hereby established the San Francisco Entertainment Commission consisting of seven members.
- (b) **Appointment of Commissioners.** Appointment of the members of the commission shall be as set forth in the City Charter:
- (c) **Terms of Commissioners.** For purposes of staggering the terms of the commissioners, the initial appointments shall have terms as follows: three commissioners shall have initial terms of four years, two commissioners shall have initial terms of three years, and two commissioners shall have initial terms of two years. All terms of the initial appointees to the commission shall be deemed to commence upon the same date, which shall be the date upon which the last of the seven initial appointees assumes office. Thereafter, all appointments and reappointments shall be for a term of four years.
- (d) **Compensation; Reimbursement of Reasonable Expenses.** Subject to the availability of funds, the commissioners shall (i) receive compensation of \$50 per

meeting and (f) be reimbursed reasonable expenses incurred for authorized activities on behalf of the commission pursuant to written policies and procedures adopted by the commission and approved by the Board of Supervisors.

(e) **Chairperson.** The commission shall, annually, elect a chairperson who shall serve for a term of one year. The commission may reappoint the chairperson to serve additional terms. The chairperson may call special meetings, instruct the Executive Director to undertake all steps necessary or appropriate for the commission to issue, deny, condition, suspend, revoke and transfer entertainment-related permits in a timely manner, and to perform such other duties as may be set forth in the bylaws of the commission. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.4. POWERS AND DUTIES OF THE ENTERTAINMENT COMMISSION.

In addition to the powers and duties set forth in Sections 4.102, 4.103 and 4.104 of the Charter, the commission shall have the following powers and duties:

(a) Accept review, gather information regarding, and conduct hearings upon applications for entertainment-related permits; and rule upon and issue, deny, condition, suspend, revoke or transfer entertainment-related permits in accordance with applicable laws and regulations. The commission may authorize the executive director or permit administrators, or both, to rule upon applications and grant, deny, condition, transfer or modify specified types of entertainment-related permits deemed by the commission to be routine and unlikely to pose significant negative impacts on persons in the vicinity of the event or establishment for which the permit is sought; provided, that any City department with an interest in the permit or person having a right to appeal to the Board of Appeals under Section 30 of the San Francisco Business and Tax Regulations Code may, in writing, (i) request that the permit application be heard in the first instance by the commission, or (ii) request reconsideration by the commission of the executive director's or permit administrator's decision. If the commission grants a request for reconsideration, it may hear the matter de novo, or may limit its review to the administrative record that was before the executive director or permit administrator at the time of his or her decision.

(b) Impose reasonable conditions upon the issuance or renewal of entertainment-related permits consistent with the applicable law, regulations and the good neighbor policy or policies for the location or locations of the establishment or event for which the permit is sought.

(c) Suspend, revoke or withdraw entertainment-related permits in accordance with the law and regulations governing such permits.

(d) Coordinate with all relevant City departments for the conduct of any inspection or investigation necessary or appropriate for the full and fair consideration of applications for the issuance, renewal or transfer of entertainment-related permits, including without limitation the Police Department and the Department of Public Health.

(e) Promote the use of City facilities for cultural, entertainment, athletic and similar events that generate revenue for the City, in consultation with the City departments having jurisdiction over such facilities.

(f) Develop and recommend to the Mayor and Board of Supervisors "good neighbor policies" that balance competing interests and promote the health, safety and welfare of San Franciscans and visitors to San Francisco.

(g) Mediate disputes between persons affected by cultural, entertainment and athletic events and establishments permitted by the City and the organizers of such events and operators of such establishments.

(h) Plan and coordinate the provision of City services for major events for which there is no recognized organizer, promoter or sponsor, or where identified organizers, promoters or sponsors cannot, in the opinion of the commission, provide adequate planning and coordination for the size, geographic distribution or nature of the event. For purposes of this Chapter, "major events" means an anticipated gathering of persons on or adjacent to public property or roadways that is likely to require police services, fire services, toilet facilities, traffic control, the availability of potable water or other City services to protect the health, safety and welfare of participants, neighbors or other persons likely to be affected by the event, including but not limited to spontaneous gatherings on Halloween, Pride events (including Pink Saturday), St. Patrick's Day and New Year's Eve.

(i) Prepare and submit to the Mayor and Board of Supervisors a report analyzing the commission's effectiveness in advancing the policies specified in Section 90.1 and the laws governing entertainment-related permits, and making recommendations related thereto. The commission shall submit the report to the Mayor and Board of Supervisors within one year of effective date of this Chapter, and not less than once every five years thereafter.

(f) With the approval of the Recreation and Parks Commission or Port Commission, as the case may be, exercise the powers and perform the duties set forth in this Section with respect to events and establishments to be held or operated upon property or within facilities under the jurisdiction of the Recreation and Parks Commission or Port Commission. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.5. EXECUTIVE DIRECTOR.

The Executive Director shall manage the day-to-day affairs of the Entertainment Commission. The Executive Director shall appoint and have supervisory authority over the permit administrators, sound technician(s), and other commission personnel. The Executive Director shall be responsible for planning and coordinating of major cultural, entertainment, athletic and similar events in the City (provided that the Police Department shall continue to be responsible for all matters concerning security and law enforcement); promoting the use of City-owned facilities for such events; promoting the location of cultural, entertainment, athletic and similar establishments within the City; promoting the responsible operation of such establishments and adherence by their operators to good neighbor policies designed to protect the health, safety and welfare of residents and businesses in the vicinity of such establishments, and performing such other duties as the commission may prescribe. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.6. PERMIT ADMINISTRATORS.

Permit administrators shall be responsible for reviewing applications and advising applicants regarding the submission of all necessary information and documentation for the commission to process applications in a timely manner; verifying information contained on entertainment-related permit applications; assisting other City departments in the review of applications for permits necessary for and coordinating investigations by developing instructions, manuals and forms for entertainment-related permit applications that can be accessed on the internet; informally mediating disputes between neighbors and such establishments and events; and for such other duties as the Executive Director may prescribe. (Added by Ord. 164-02,

File No. 020783, App. 7/26/2002)

SEC. 90.7. SOUND TECHNICIAN.

Sound technicians shall be responsible for conducting tests and investigations relating to noise levels and compliance with Article 29 of the San Francisco Police Code as may be necessary or appropriate for the issuance, denial, conditioning, suspension, revocation or transfer of entertainment-related permits; issuing findings, reports and recommendations thereon; and for such other duties as the Executive Director may prescribe. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.8. ANNUAL REPORTS.

The Entertainment Commission shall issue an annual report to the Board of Supervisors and Mayor by March 1st regarding its activities for the preceding year. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 90.9. FEES.

Within one year after the operative date of this Article, and annually thereafter, the Entertainment Commission shall submit a report to the Mayor and Board of Supervisors analyzing the fee revenue generated from the issuance, renewal and processing of applications for entertainment-related permits, and proposing fees therefor that will cover the annual operating costs of the commission. Within three years of the operative date of this Article, the Board of Supervisors shall establish fees for entertainment-related permits at levels sufficient to cover the estimated annual operating costs of the commission. (Added by Ord. 164-02, File No. 020783, App. 7/26/2002)

Effectiveness Report

The San Francisco Entertainment
Commission:

Effectiveness Report 2007

In 2003, the City and County of San Francisco embarked on an experiment: to implement the first ever Entertainment Commission in the United States. The City created a set of policy declarations, in a variety of forms, to guide the newly created department in its first years. The City also faced difficult choices regarding its budget, and therefore created a staffing challenge for the Entertainment Commission with its first steps.

As required by Administrative Code, Chapter 90, Section 90.4, the Entertainment Commission shall submit a report to the Mayor and Board of Supervisors analyzing its effectiveness in advancing the policies specified in Chapter 90, section 90.1 and the laws governing entertainment-related permits, and make recommendations related thereto.

This report represents the Entertainment Commission's first attempt to analyze the effectiveness of our efforts implementing those policies and declarations. While the Commission continues to devise systems to measure the impact of its work, there is no roadmap for the department nor clear paths to simple success.

(1) Assist the organizers of cultural, entertainment, athletic and similar events and establishments to apply for and obtain from the commission and other city departments the necessary permits. The staff of the commission has established a very effective system of assisting applicants in obtaining EC permits in a predictable and timely fashion. These include fixed place permits (Place of Entertainment,

Extended Hours, Billiard Parlor, etc.) and one time permits (Loudspeakers, Soundtrucks, One Time Events, Dance permits.) This process works well primarily due to a system of single points of contact with the pertinent departments, including Planning, SFPD, SFFD, DBI, Health, etc. who are routinely involved in signing off on most EC permits. The commission staff also has a voting seat on ISCOTT, (Interdepartmental Staff Committee on Traffic and Transit), which keeps staff involved in the process of closing streets for cultural, entertainment and athletic events. With these systems, staff can shepard an applicant completely thru the planning and approval processes required for single day or permanent fixed place permits. Due to the designated single point of contact with various departments, the turnaround time for approvals of most permits has been reduced. The staff and commission has also mounted a strong outreach program with the different associations that represent some of the primary event coordinators, and this has created opportunities to work with, and train applicants both in how to more effectively plan the event to comply with city regulations, but also how to prepare their permit applicant. This outreach program has also helped to reduce the time required by the city to process the application.

- (2) Promote the responsible conduct and operation of such events and establishments: The commission has been very successful in working with both event promoters and venue owners, in promoting effective management techniques. This effort starts with an intensive permit intake procedure that is required for each new applicant. Every permit applicant meets with staff to review their management approach to every phase of the venue operation. The commission has also passed legislation in 2004, commonly referred to as "Scharrod's Law" (Board of Supervisors Ordinance #262-04) that requires all venues to have a Security Plan as part of their application, and must be approved by the

commission. For permit holders that were inherited, the commission works mostly by bringing venue owners in similar geographic areas together for larger impact. For instance, along the "Broadway corridor", "SOMA" south of market" (eleventh street, eighth street, and the area around Fourth and Mission), and the "eastern waterfront," commission staff worked with groups that included local police officers, as well as merchants and residents to resolve conflicts and to make sure that nighttime businesses and their patrons remain good neighbors. These meetings have been successful in establishing better management of venues and greater cooperation between the police and the venue operators. The commission has also worked with the fair and festival promoters to promote strategies that will help them to have safer and more neighborhood friendly events.

- (3) Promote the development of a vibrant entertainment and late-night entertainment industry. The commission has worked hard to promote entertainment in the city but the results have been mixed. The number of new fixed place permits issued has increased slightly, but many of those new permits are for venues that have been turned over to new ownership, as opposed to brand new entertainment or hospitality establishments. The state of entertainment in the city, according to many in the entertainment industry, is flat. In many ways, this flatness may be attributed to the variety of ways that city government has created obstacles in the form of liquor moratoriums, zoning restrictions, etc. However, the Entertainment Commission continues to work toward decreasing the amount of government obstacles that become barriers to entry. For instance, the Entertainment Commission created and helped pass legislation in 2004 creating a new "One Night Event" permit which enables responsible promoters to hold events in alternative spaces that are safe and meet city code requirements. In this way, the city promotes creativity and safe entertainment without

ongoing impacts on neighbors. In addition, the commission works with the Planning Department to try and insure that zoning restrictions will not hamper growth within the industry. We work daily with neighborhood groups and individual residents toward finding a greater appreciation of the value of hospitality, entertainment, and nightlife in their communities. Additionally, commission staff has worked closely with the San Francisco Redevelopment Agency, as well as Mayors Office of Community Development on at least three major projects involving entertainment components.

(4) Promote the use of city facilities for cultural, entertainment, athletic and similar events that generate revenue for the city. The commission staff has been heavily involved with the increased use of the Bill Graham Civic Auditorium. That facility has increased the number of shows significantly and Fiscal Year 2006-2007 is expected to be one of their highest earning years. Staff has also worked with The Port Commission to increase the number of cultural and entertainment events at municipal piers. In addition, staff is facilitating weekly live entertainment throughout the tourist season in the Fisherman's Wharf area in conjunction with the Fisherman's Wharf Merchants Association, the newly created Community Benefit District, and the Port. Also, staff regularly works with the Treasure Island Authority to bring new events to that area, including new music festivals and cultural events.

(5) Foster harm reduction policies: The Entertainment Commission worked closely with the Office of Emergency Services to create and pass new legislation in 2005 requiring events and venues of five hundred (500) or more patrons to have an "emergency medical" plan in place so as to ensure highest levels of public safety (Board of Supervisors Ordinance #051382.) Staff also educates new and older fixed place permit holders of city regulations requiring free water and

earplugs in fixed place venues with capacity of over 500 patrons
(Police Code Section 1060.28.)

(6) Develop "good neighbor plan": The Entertainment Commission developed and approved a set of "Good Neighbor Policies" in 2004 (see attached.) These 11 conditions are imposed on all permits issued by the commission and set forth concise expectations on permit holders.

(7) Mediate disputes between persons affected by cultural entertainment related events: The Entertainment Commission has been successful in mediation in every neighborhood in the city, and continues to reach out to neighborhood groups and continues to educate venue owners on how to implement good neighbor policies. Primarily, issues of sound, crowd noise (attributable to the smoking ban), and security are the main focus of these mediations. Positive outcomes are reached when staff is able to connect venue owners and managers with neighbors and police officers in a working, ongoing relationship. At the inception of the Entertainment Commission, it was determined that enforcement of all laws would remain the duty of the SFPD. In that way, they remain an integral part of any solution and positive outcome. Simply, the commission has become an effective intermediary and is able to find solutions that work.

(8) Assume responsibility from the police department for issuing entertainment related permits: The Entertainment Commission assumed initial responsibility for all entertainment related permits, and their concurrent tax licenses, in August 2003 and completed the transition from the SFPD Permit Section in January 2004. All application forms have been revised and continue to be improved. Intake procedures are much more extensive and educational.

(9) Plan and coordinate city services for major events such as Halloween in the Castro. The Entertainment Commission has taken responsibility for "Halloween in the Castro" since its inception in 2003.

(10) Provide information regarding venues and services appropriate for conducting events and functions ancillary to conventions held within the city. The Entertainment Commission has worked with the Convention and Visitors Bureau to keep them informed of new venues and send potential clients to their facilities. The Commission was the first sponsoring agency of the San Francisco International Arts Festival which promotes the arts and the City through an annual multi-disciplinary festival in May each year. The Commission also sponsored showcases of San Francisco music during the annual South by Southwest Music Conference in Austin, Texas, and will be doing the same at the CMJ Music Conference in New York City. The focus of both these conferences is to bring back San Francisco's live music scene into the focus of the mainstream music industry.

The Entertainment Commission begins its fourth year in July 2007 as a model for other cities to emulate, including Chicago, Seattle, and San Jose. While the effectiveness of the first years is beginning to come into view, the future looks more exciting than ever.



Entertainment Commission Good Neighbor Policy

Good Neighbor Policies for Nighttime Entertainment Activities. *Where nighttime entertainment activities, as defined by this permit are conducted, there shall be procedures in place that are reasonably calculated to insure that the quiet, safety and cleanliness of the premises and vicinity are maintained. Such conditions shall include, but not be limited to, the following:*

1. Notices shall be well-lit and prominently displayed at all entrances to and exits from the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood; and
2. Employees of the establishment shall be posted at all the entrances and exits to the establishment during the period from 10:00 p.m. to such time past closing that all patrons have left the premises. These employees shall insure that patrons waiting to enter the establishment and those exiting in the premises are urged to respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area; and
3. Employees of the establishment shall walk a 100-foot radius from the premises some time between 30 minutes after closing time and 8:00 a.m. the following morning, and shall pick up and dispose of any discarded beverage containers and other trash left by area nighttime entertainment patrons; and
4. Sufficient toilet facilities shall be made accessible to patrons within the premises, and toilet facilities shall be made accessible to prospective patrons who may be lined up waiting to enter the establishment; and
5. The establishment shall provide outside lighting in a manner that would illuminate outside street and sidewalk areas and adjacent parking, as appropriate; and
6. The establishment shall provide adequate parking for patrons that would encourage use of parking by establishment patrons. Adequate signage shall be well-lit and prominently displayed to advertise the availability and location of such parking resources for establishment patrons; and
7. The establishment shall provide adequate ventilation within the structures such that doors and/or windows are not left open for such purposes resulting in noise emission from the premises; and
8. There shall be no noise audible outside the establishment during the daytime or nighttime hours that violates the San Francisco Municipal Code Section 49 or 2900 et. seq. Further, absolutely no sound from the establishment shall be



Entertainment Commission Good Neighbor Policy

audible inside any surrounding residences or businesses that violates (San Francisco Police code) section 2900.

9. The establishment shall implement other conditions and/or management practices necessary to insure that management and/or patrons of the establishments maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use, and do not block driveways of neighboring residents or businesses.
10. Permit holder shall take all reasonable measures to insure the sidewalks adjacent to the premises are not blocked or unnecessarily affected by patrons or employees due to the operations of the premises and shall provide security whenever patrons gather outdoors.
11. Permit holder shall provide a cell phone number to all interested neighbors that will be answered at all times by a manager or other responsible person who has the authority to adjust volume and respond to other complaints whenever entertainment is provided.

Adopted by the Entertainment Commission on November 16, 2004