



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 17630

HEARING DATE JUNE 19, 2008

Date: June 19, 2008
Case No.: **DIRECTOR'S REPORT**
Project: **Music & Culture Charter Amendment**
Project Sponsor: Supervisors Mirkarimi and Ammiano
From: John Rahaim, Director, Planning Department
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RECOMMENDING THAT THE BOARD OF SUPERVISORS BOARD MODIFY THE PROPOSED MUSIC AND CULTURE CHARTER AMENDMENT AS DESCRIBED IN THIS RESOLUTION AND ARTICULATED IN THE ATTACHMENT A AND THEN VOTE IN FAVOR OF PLACING THE MODIFIED CHARTER AMENDMENT ON THE BALLOT TO BE BEFORE THE VOTERS OF SAN FRANCISCO THE NOVEMBER 3, 2008.

WHEREAS, on May 13, 2008, Supervisors Mirkarimi and Ammiano introduced a proposed Charter Amendment under Board of Supervisors (hereinafter "Board") File Number 080649 which would 1) establishing a music and culture sustainability policy; 2) establish a process to incorporate those-principles into the General Plan of the City and County; 3) amend Section 4.106 to provide that the Board of Appeals shall have jurisdiction to hear appeals involving entertainment-related permits and events under the jurisdiction of the Recreation and Park Commission or Department; and 4) establish a working group under the direction of the Executive Director of the Entertainment Commission that would include many agencies, including the Planning Department, to develop a plan for permit streamlining of entertainment related permits.

The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 12, 2008; and,

The Commission adopted the resolution on June 12, 2008 with modifications to:

- Ensure that the General Plan Amendment to incorporate the principals of this Charter Amendment is accompanied by an implementation document that will guide all appropriate agencies on implementation measures, including related code amendments, as appropriate.
- Remove timelines that may restrict the public process or present the Planning Department with an unfunded mandate to complete work during challenging budget years.
- Include the Entertainment Commission and all relevant stakeholders on all future updates of the General Plan and Planning Code that pertain the principals outlined in the Charter Amendment.
- Maintain current processes for amending the Plan with the Planning Commission and avoid forwarding amendments from single-issue commissions.

City Charter Section 4.105 establishes the Planning Commission and the Planning Department as the City's sole author of the General Plan. The General Plan is the City's guiding policy document.

California State Government Code, Section 65302, regarding General Plans, mandates that the General Plan balance a host of issues including but not limited to land use, noise, conservation, transportation and open space.

Designating a single body with the duties of writing and updating the General Plan helps to ensure internal consistency of the document. In fact, this consistency of policy is so important, that the Board of Supervisors can only approve or disapprove this document, thereby avoiding line by line changes and assisting to maintain balance and cohesion.

The proposed Charter Amendment enables a single issue body to effectuate change within the General Plan above and beyond any recommendations by the Planning Commission and could therefore greatly undermine the continuity of the City's General Plan.

Currently, Charter Section 4.105 directs that General Plan is developed through the Planning Commission, a body charged with holistic policy review and with benefit of interagency and inter-commission coordination. Allowing a single-issue commission, such as the Entertainment Commission, to forward amendments of the General Plan to the Board of Supervisors would open the door to single issue departments amending each element of the General Plan.

A review of the various elements of the General Plan illustrate the potential impact this could have: Housing, Commerce and Industry, Recreation and Open Space, Transportation, Urban Design, Environmental Protection, Community Facilities, Community Safety, Arts and Air Quality-- should all ideally be considered respective of each other and not in isolation.

Further, the timeline proposed is problematic. The Amendment proposed initiating a community planning process for this General Plan Amendment by February 2, 2009 and completing the process (and presumably any associated environmental review) by July 1, 2010. This timeline seems incredibly restrictive and potentially limiting to genuine engagement of all stakeholders.

These changes may be excessive considering that expansive policies protecting art and culture are already in the General Plan in the Arts Element. Each of the 12 principals proposed in the Charter Amendment appears to have a parallel policy that exists in the General Plan today. These parallel policies are very close to the language of the Charter Amendment and in most cases go further than the Charter Amendment. One notable exception, a policy for artist housing, is outdated and refers to the optimistic but failed policy for live/work artist housing. Perhaps the most valid critique of the Arts Element as it exists today would be a lack of definition of what it means to be "art". Defining "art" has proven difficult throughout history. Perhaps it is for this reason that the existing Arts Element provides no definition for art. It does however inventory existing arts uses at that time including theater, dance, music and visual arts. The Arts Element goes on to state that literary arts should also be considered in all definitions of "arts" and "artists". The Charter Amendment seems most concerned with live music, late night entertainment, and street fairs. If the true concern of this Charter Amendment is protecting live music, late night entertainment and street fairs with General Plan Policy, then perhaps the Charter

Amendment should focus on specifying the definition of "Arts" in the Arts Element instead of diluting responsibility for developing General Plan policies.

It could be argued that the City's difficulties in protecting "music and culture" in San Francisco are not due to a shortage of policy. The Arts Element alone contains 68 Objectives and Policies to promote art in San Francisco. The problem seems to lie more in the realm of implementation: ensuring that the City's various Codes work to implement these policies and not prohibit the provision of Music and Culture may be a more appropriate remedy.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board MODIFY the proposed Charter Amendment as described in this resolution and articulated in the Attachment A and then VOTE IN FAVOR of placing the modified Charter Amendment on the ballot to be before the voters of San Francisco on November 3, 2008.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 19, 2008.

Linda Avery
Commission Secretary

AYES: Olague, Miguel, Lee, Antonini, Moore, Sugaya

NOES: none

ABSENT: none

ADOPTED: June 19, 2008