

City Council
Mayor Patrick Slayter
Vice Mayor Neysa Hinton
Una Glass
Sarah Glade Gurney
Diana Rich



Agenda Item Number: 1

City Manager/Attorney

Larry McLaughlin

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City of Sebastopol

CITY COUNCIL MEETING MINUTES MINUTES FOR Meeting of August 31, 2022

As Approved by the City Council at their regular meeting of September 6, 2022

The City Council Special meeting was held via teleconference pursuant to AB 361. Pursuant to AB 361 (2021), Teleconference Restrictions of the Brown Act Have Been Suspended, as Well as the Requirement to Provide a Physical Location for Members of the Public to Participate in the Meeting. The City of Sebastopol City Council meeting will not be physically open to the public and all City Councilmembers will be teleconferencing into the meeting via Zoom.

COUNCIL PROTOCOLS FOR MEETING:

- This meeting was conducted utilizing virtual settings for teleconferencing and electronic means consistent with State of California Executive Orders regarding the COVID 19 pandemic and AB 361.
- Live stream and zoom were utilized for this meeting.
- Members of the public were able to view and listen to the meeting by use of Zoom and Live Stream as noted on the City's website and as noted on the agenda.
- Members of the public wishing to speak to the City Council were able to do so during public comment or were able to comment on agenda items during the discussion of each item and must have been logged into Zoom. Live Stream is a viewing only format.
- Anyone using abusive, vulgar, offensive, threatening, or harassing language, personal attacks of any kind or offensive terms that target specific individuals or groups were noted that they may be muted, and were told that they may be asked to adhere to protocols and /or would be removed from the meeting.

Reminder please leave your microphones on mute until called upon and if you would like to provide your name during public comment you are welcome to do that but do not have to.

Please note that minutes are not meant to be verbatim minutes and are meant to be the City's record of Actions Taken (Approved Motion of Agenda Item(s)).

9:30 am **Convene City Council Special Meeting (ZOOM VIRTUAL FORMAT)**

CALL TO ORDER: Mayor Slayter called the Special meeting to order at 9:30 am.

ROLL CALL:

Present: Mayor Patrick Slayter – By video teleconference
Vice Mayor Neysa Hinton – By video teleconference
Councilmember Una Glass – By video teleconference
Councilmember Sarah Gurney – By video teleconference
Councilmember Diana Gardner Rich - By video teleconference

Absent: None

Staff: City Manager/Attorney/City Attorney Larry McLaughlin
Assistant City Manager/Attorney/City Clerk Mary Gourley
Planning Director Svanstrom
Associate Planner John Jay

Agenda Item Number: 1

City Council Meeting Packet of: September 20, 2022

7120 Bodega Avenue, Sebastopol, California 95472 Tel. 707.823.1153 Fax. 707.823.1135

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SALUTE TO THE FLAG: Mayor Slayter led the Salute to the Flag.

STATEMENTS OF CONFLICTS OF INTEREST: Conflicts of interest may arise in situations where a public official deliberating towards a decision, has an actual or potential financial interest in the matter before the Council. In accordance with state law, an actual conflict of interest is one that would be to the private financial benefit of a public official, a relative or a business with which the Councilmember is associated. A potential conflict of interest is one that could be to the private financial benefit of a Councilmember, a relative or a business with which the Councilmember is associated. A Councilmember must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue and must remove themselves from the dais.

There were none noted.

CONSENT CALENDAR: The consent agenda consists of items that are routine in nature and do not require additional discussion by the City Council or have been reviewed by the City Council previously. These items may be approved by one motion without discussion unless a member of the City Council requests that the item be taken off the consent calendar.

The Mayor will read the consent calendar items; ask if a Councilmember wishes to remove one or more items from the consent calendar; and then open public comment to the members of the public in attendance. At this time, a member of the public may speak for up to three minutes on the entire consent calendar and request at that time that an agenda item or items be removed for discussion.

If an item or items are removed from the consent calendar, the item shall be placed at the end of the regular agenda items unless otherwise determined by the Mayor or Mayor Pro Tern.

Councilmembers may comment on Consent Calendar items or ask for minor clarifications without the need for pulling the item for separate consideration. Items requiring deliberation should be pulled for separate consideration and shall be placed at the end of the regular agenda items unless otherwise determined by the Mayor or Mayor Pro Tern.

Mayor Slayter read the consent calendar.

Mayor Slayter asked if any Councilmember wanted to remove a consent calendar item. There was none.

Mayor Slayter opened for public comment on the consent calendar. There was none.

Mayor Slayter called for a motion.

MOTION:

Mayor Slayter moved and Vice Mayor Hinton seconded the motion to approve Consent Calendar Item(s) Number(s) 1.

Mayor Slayter called for a roll call vote. City staff conducted a roll call vote.

VOTE:

Ayes: Councilmembers Glass, Gurney, Rich, Vice Mayor Hinton and Mayor Slayter

Noes: None

Absent: None

Abstain: None

1. Resolution Authorizing Continued Use of Teleconference Meetings Based on Circumstances of the COVID-19 state of emergency and that the following circumstances exist:

a. The state of emergency as a result of COVID-19 continues to directly impact the ability of the members of City Council and the members of the City’s subordinate Committee’s, Commission’s, and Boards to meet safely in person; and

b. The State of California and the City of Sebastopol continue to impose or recommend measures to promote social distancing.

c. Resolution needs to be submitted to Council every 30 days. Last approval: August 2, 2022 (Needs approval prior to September 2, 2022)

City Council Action: Approved Resolution Authorizing Continued Use of Teleconference Meetings Based on Circumstances of the COVID-19 state of emergency and that the following circumstances exist:

- a. The state of emergency as a result of COVID-19 continues to directly impact the ability of the members of City Council and the members of the City's subordinate Committee's, Commission's, and Boards to meet safely in person; and
- b. The State of California and the City of Sebastopol continue to impose or recommend measures to promote social distancing.

Minute Order Number: 2022-

Resolution Number: 6741-2022

PUBLIC HEARING(s):

- 2. Public Hearing: The City Council will consider an application from Jesse Hom Dawson to appeal the decision of the Planning Commission on the alcohol use permit at 7233 Healdsburg Ave. The Planning Commission upheld the appeal and approved the alcohol transfer permit at its July 12, 2022 meeting. (Responsible Department: Planning)

Mayor Slayter commented as follows:

- The City Council will consider an application to appeal the decision of the Planning Commission on the alcohol use permit at 7233 Healdsburg Avenue.
- The Planning Commission approved the alcohol transfer permit at the July 12, 2022 meeting
- A couple comments to start this item.
- There's a saying about baseball. How you see something new every single day, even though the game has been played for almost 170 years.
- In my time on Council, that truism has continued to be met.
- We are never for a lack of learning new things.
- We are never of a lack of items that are not like any item we have ever heard before.
- This Council has done appeals. We have done many appeals.
- Some pretty heavyweight ones certainly around land use decisions, and this is one of those unique situations.
- I will ask everyone for patience as we work through this.
- I will ask everybody for civility and politeness.
- I'm not asking for people to change opinions or to couch statements.
- It's important for everyone to be heard but it's also important for us to treat each other with respect, even though we may not agree with somebody else.
- I will stop with these comments there, and outline the way we will proceed with this.
- First, we will hear from our staff, our Planning Department, Planning Director, and then we will hear from the appellant, and part of the Planning Director's presentation and staff report will be a description of who these people are, and it can be a little confusing as we work through this.
- We want to make sure that everybody here understands who is sitting in which chair. What role they are playing in this procedure.
- First, the staff report and then we will hear from the appellant who is the individual who filed the appeal of the Planning Commission's decision.
- We will hear from the applicant that is the restaurant.
- There are certainly individuals, but that is the applicant for the use permit, and then we will move to questions, actual questions from Council and then we will move to public comment and then response to public comment and the public hearing will close and we will, as a Council, deliberate and come to a decision.

Director Svanstrom presented the agenda item recommending the City Council consider an application from Jesse Hom Dawson to appeal the decision of the Planning Commission on the alcohol use permit at 7233 Healdsburg Ave. The Planning Commission upheld the appeal and approved the alcohol transfer permit at its July 12, 2022 meeting.

The appellant (Jesse Hom-Dawson) commented as follows:

- My name is Jesse Hom-Dawson and I am a representative of a group of survivors that have been harmed by Lowell Sheldon.
- I want to say thank you for convening this special meeting today.
- The final appeal for the alcohol use permit of Piala.
- I understand that it's the City Council to adjudicate this, I understand this is a controversial topic and I appreciate you to review to make the best informed decision possible.
- We are asking you to recognize that Sheldon's behavior is detrimental to the health, safety, peace, morals and comfort of persons residing or working in the area of such use, as you are asked to consider under code 17.415.030 B.
- In the staff report for the meeting, Director Svanstrom noted that the burden of proof was clear who was responsible for the conditions.
- We are asking someone whose livelihood for Mr. Sheldon's behavior to police him.
- That is to make sure that Mr. Sheldon falls in the provisions.
- However, it would mean there is no incentive for him to report if Mr. Sheldon failed to live within the provisions.
- One commissioner commented, there are many eyes on the project. I think the community is monitoring this.
- If the community is the one to police this, will a photo of Mr. Sheldon be posted outside the restaurant saying he is not allowed to drink inside and please call the city if you see such?
- Will they feel safe and empowered to report if they do witness the provisions being broken?
- If a member did see something and said he was drinking, and the license should be revoked, How would they react?
- Photo proof?
- Video proof?
- That is the evidence necessary to revoke Piala's license if he broke the provisions.
- Our group, the main concern is for the safety and welfare of the women and workers associated from Piala.
- The statements from Mr. Sheldon and his attorney do not show remorse.
- According to his e-mail, he states he is innocent of accusations of assault.
- Mr. Sheldon said that no complaints were ever brought forth.
- These statements are made despite the fact he was found guilty of inappropriate behavior and sexual harassment by an outside investigator Susan Daniel when he was part owner at all three restaurants.
- An e-mail November 26, 2019 to a victim, it starts, Miss Daniel interviewed witnesses and reviewed documents, text and video footage and concluded that Mr. Lowell's conduct violated policy.
- They will take action to prevent such violations in the future.
- Sheldon's denial in the face of evidence shows his inability to take responsibility for his actions.
- Mr. Sheldon's ex-business partner stated, he denied responsibility and ignored requests to address his behaviors over the years.
- Every time, an apology followed confrontation. It was reported behavior that endangered our employees and reputation.
- I know it's only a matter of time before something else could happen.

- Both Mr. Sheldon and Mr. Sheldon's lawyers have continued to insist they are only allegations as there has been no court case or charges filed.
- I will refer to Commissioner Paul Fritz's comments where he said there have been several people who made comments he has never been tried for anything, no charges have ever been filed against him, and I'm sure that we recognize in the world of sexual assault and sexual harassment that many never get tried.
- They never go to trial. People have whatever reasons they have for not pushing it and we need to respect they are real allegations.
- In the staff report, Director Svansson wrote while the City cannot guarantee that any applicant will adhere to approval, given that many of Mr. Sheldon's critics were once employees of his establishments, the risks he would take to consume alcohol would be more likely to be reported.
- I don't think more than likely is enough.
- Dozens of employees have come forward about his behavior, and many others have come forward but are afraid to speak up because they were smeared on social media by his family.
- Our allies have been harassed by his family members and we are all experienced the real consequences speaking up against powerful members of the community.
- If the provisions are upheld, I'm asking you to realize what is at stake.
- A woman's life can be affected, traumatized or serious injury is caused.
- This is not something to take lightly, as myself and other fellow survivors can attest to.
- We have three recommendations to use discretion and authority in lieu of a conditional permit, and we ask that you deny the approval use for one year, and in one year, allow him to return to the Planning Commission with evidence he has taken meaningful steps to understand the risk of drug and alcohol use in the workplace and he is no longer a threat to sell alcohol.
- The second alternative is that Sheldon remove himself from ownership from Piala.
- Mr. Berlin has stated that he plans on doing most of the work alone and Sheldon is not necessary for any management or day to day operations.
- The third is that Sheldon can maintain his role as owner but banned from being on premises for a minimum of one year.
- As I said, Mr. Berlin stated that he was fully capable of running the restaurant without Sheldon's help.
- All the alternatives listed mitigate the damage that Lowell can cause to the community, and he can cause lasting and physical damage.
- 12 years of this behavior shows his position as owner to abuse and manipulate other employees, especially under the influence of alcohol.
- The liability of the license is too high to risk another person being harmed.
- Please reconsider the Planning Commission's decision.
- I and others have sacrificed work opportunities to speak up for his behavior.
- We have lost our sense of safety in the community and children's schools.
- However, we want to prevent it from happening to future women because we believe the risk is too great to stay silent.
- Thank you for taking and listening to me today. I really appreciate it.

The applicant (Lowell Sheldon/Piala Restaurant) commented as follows:

- My name is Lowell Sheldon, and I'm one member of Piala LLC.
- I hope each one of you had a chance to read my full statement I submitted to you last week.
- It details my personal story and my view how the entire train got far off the rails.
- Over 600 pages have now been filed on city record dedicated to Piala's alcohol use permit, and restrict my alcohol consumption.

- I am here to say that prohibiting me from drinking is not a condition that is related to life events.
- It assumes I will harass people under the influence.
- I do not harass people, drunk or sober. Never have, never will. That's not a denial. It's a historic truth.
- What should be clear by this point in the process is that when a government body such as the Planning Commission or City Council, steps outside its ordinary purview and attempts to sort fact from fiction based on character attacks and unproven allegations, it can easily lose its way.
- We are chasing our tails, getting dizzy in the dust storm it has created.
- I have given everything to show you I'm not a threat.
- They are going to paint me as evil, enough to ban me from owning a restaurant.
- You are buried in 600 pages of he said, she said.
- I wonder if you are any closer to the truth.
- The hard truth, this should never have been in front of you.
- Let's step back from the fray just a moment and look at the stringent process for obtaining a liquor license.
- We have a public agency related to alcohol and fair apportionment of licenses in each county.
- The beverage control is legally tasked by pulling criminal records and assessing the relevance to an application.
- If a member of an LLC is looking to obtain a liquor license, the case manager will look at the infraction, when it occurred and look at if it has an impact.
- Not only do the individuals involved in the application but a letter is sent out to homes, a sign is posted and public comment from neighbors and community members are welcome.
- They analyze all the information and process thousands of applications every year, completing a thorough investigation of facts.
- Does it not sound fair to each of you?
- Does it not seem like a reasonable safeguard for the communities, a thorough investigation by a public agency that refers each applicant to file documents under oath and assess criminal background, and for Piala LLC, they have been doing it in the background quietly and professionally and will grant or deny our license based on facts and precedent.
- But they cannot make a decision until we have a use permit.
- Let's return to our little town of Sebastopol and this process of obtaining a use permit.
- It's not about the person but about the use.
- We know the use is a settled matter as Piala is in a building that has historically a restaurant.
- The moral character of any individual is a factor.
- Yet the city lawyer acknowledged that no knowledge of this obscure passage has been blocked from denying a use permit or condition of approval. So what is meant by this passage?
- Is it meant to allow the City to block people from obtaining a use permit who have allegedly done things?
- Or rather people who have been proven to have done things?
- If it is the former, is the City Council meant to assess the veracity of allegations?
- Do you feel you can honestly and fairly execute the task at hand?
- As the Planning Director made clear, the ordeal is predicated on my proving I am not a threat.
- But I must prove I am innocent but the law of the land states we are innocent until proven guilty.
- So we are back to chasing our tails round and round and round.
- I have spent four years of my life living through the most vicious character attacks one can possibly imagine.
- Not once have my detractors considered using our civil or criminal system or any impartial process where the full truth can be seen.

- I believe they didn't do it because it would have removed the ability to result in fabrications and taken away their merit as activists.
- City Council, enough is enough.
- We urge you to allow the alcohol control be the sole process to a liquor license and allow them to perform their duty to investigate with a training and legal authority granted to them by the state.
- The City Council has a different task.
- They have been assessing the use and whether it is appropriate in any given location.
- Let us set a precedent here that the moral character applies to factual convictions, not salacious allegations.
- I have been in this mess. My family and friends have seen this vicious and sad cycle go on and on and see me wake up each day as a loving father and hopeful member of this community.
- They love me and know who I am. I know who I am.
- Please approve our use permit so we can open this great new restaurant.
- If you see fit to implement the conditioning supported by staff and approved by the Planning Commission, we will honor them as the law of the land.

Jeffrey Berlin, Partner, Piala, commented as follows:

- Lowell's base business partner in Piala.
- I come from a long restaurant background and have built my reputation on creating establishments that are successful and also very welcoming fixtures in the community where I have operated them.
- Places where people have felt safe to gather for decades.
- Knowing Lowell and knowing his reputation for his restaurants, I look forward to doing business with him and creating more projects like that, that were fixtures in the community where people felt comfortable and safe and happy to frequent their local establishments.
- Knowing Lowell and being up here, close to him for the past few years of this whole process it's not, of course, been ideal, but it honestly wouldn't change it for anything because it's afforded me the opportunity to better know Lowell's character and watch him navigate his way through the extremely difficult proceedings and to really confirm and reinforce my understanding of his character as a person and as someone who has a genuine interest in building a new business that reflects the public interest and the evolution of the restaurant industry and that's something I really look forward to myself.
- Is taking all the lessons that we're learning from this situation and creating a new restaurant that embodies the public's demands for a new kind of restaurant that is safer and more inclusive and more reflective of community interests.
- We are doing everything in our power to employ outside human resource services to ensure that the restaurant environment where our employees will work will in fact feel safe and have a service available to them that will ensure that it's a good place to work for everyone.
- Aside from the fact that our restaurant will be definitely under the public microscope, regarding Lowell's presence there and use of alcohol, if I agree with whatever decision is made here regarding how we will go forward operating the restaurant, that's going to be the way that I run the restaurant.
- If an agreement is met here regarding Lowell's presence and consumption of alcohol, that is what the decision will be and I will enforce it 100%.
- I'm mostly really just hear to answer any questions that you may have.

Bob Haroche for Piala commented will we have an opportunity for a few minutes of rebuttal for comment?

Mayor Slayter commented as follows:

- This is not a courtroom.

- This is not a court case.
- I will ask the City Attorney where we are with that request.

City Manager/City Attorney McLaughlin commented this is a quasi-judicial proceeding, this allows public comment, so I think it would be appropriate.

Mayor Slayter commented as follows:

- Thank you for that advice.
- That is how we will proceed, and I suppose it comes down to terminology in a lot of ways.
- Rebuttal and evidence and testimony are used in courtrooms and not common terms while the intent is the same, as the City Attorney just noted.

Director Svanstrom commented as follows:

- We do have a Planning Commission liaison, Debbie Burns, I want to note that she did vote no in the original Planning Commission decision.
- However, I have spoken with her and she is confident that she can represent the Planning Commission deliberations as a whole in a non-biased way.
- She is here in case the City Council has questions regarding deliberations.

Mayor Slayter opened for questions.

Councilmember Rich commented as follows:

- This is a sensitive matter and there's an emotional aspect to it.
- We are simply trying to do what is important to the community as a whole, not adjudicating anything.
- Just trying to serve our community and health and safety interests.
- My question arises from my view of the proceeding at the June 28th and July 12th Planning Commission hearings when the issue was addressed and the issues that we are now reviewing arose, and it's a question that is really directed probably most appropriately to Lowell Sheldon and perhaps Jeff Berlin,
- It's unclear to me what Lowell Sheldon's presence at the restaurant will be.
- At the June 28 proceeding, there was substantial indication that involvement and presence would be very limited. But as the July 12th hearing indicates, there seems to be, as I reviewed, there seems to be minutes and lack of clarity.
- This enters into the health and safety welfare question.
- Please clarify for us what you intend your presence at the restaurant to be should we approve this request.

Mr. Lowell commented as follows:

- The intention of Pinal has always been for Jeff to operate the restaurant and me to be a partner with experience in the background of available to help as needed given the uncertainty of labor force, fixing things, so and so forth.
- We proposed originally that I don't work regularly at the restaurant as an employee, because that is never the intention.
- We wanted to make clear that was not the intention. It has maintained today that that is not the intention.
- We also don't feel there is a basis for limiting my movement in and out of the restaurant or filling a shift, should a shift be needed to be filled, as long as I'm not serving alcohol, which we agreed to at the Planning Commission.

- I need to come in and fix something, there should be no reason I can't do that.
- It can already do that in any other business, any restaurant, and it has no correlation to what's been decided today.
- We didn't propose that as a condition, that I be barred from coming to the restaurant, and we don't feel like that would work for a small business in this capacity.

Councilmember Rich commented as follows:

- When I look back at your statements and the statements of your attorney at the June 28 and July 12 hearings, you make a number of statements that indicate that you do not intend to have any operational involvement with the restaurant.
- Your attorney said Lowell will have no involvement in Day-to-Day operations.
- You stated that you wanted to reiterate that you were willing to not work there at all in any capacity ever, but you did object to any limitation that would prevent you and your family from coming to the restaurant as customers.
- Your attorney actually proposed that your right to enter the premises could be no greater than that of any other member of the public.
- Is what you are saying to us different from those statements?

Mr. Sheldon commented as follows:

- In the heat of the moment, in the middle of the first commission hearing, we were trying to sort out what the dynamics of what they were interested in achieving were.
- I think it's less appropriate to look at each of those statements and pick them apart and look at the follow-up meeting where Kari (Director Svanstrom) and we agreed upon a condition that was to focus on the issue at hand, it would be related to alcohol, and that is why we came up with that condition.
- We have said all along that the flexibility for me to be able to come in, fill a shift, do things around the restaurant, fix things, wash dishes, whatever needs to be done in the kitchen, to help from time to time, that that is something we need the flexibility to have.
- There were individual comments that can be pointed to that speak contrary to that but that is not our intention overall, and we hope you can look at the larger context.

Councilmember Rich commented as follows:

- Would it be fair to say at this point, that your expectation from the conditions, that were approved by the Planning Commission, is that you will be allowed to freely enter, come and go as a co-owner, with the limitation that you are not to consume alcohol on the premises and you are not going to manage the other conditions we talked about.
- Just to make sure on it you can show up in a work shift be in the back of restaurant, back with staff, chatting with staff, helping with other ways the restaurant might need, being in front, serving food, chatting with customers, conducting yourself as an owner, subject only to the limitations that are in the specific conditions.
- That other wise, you feel you would be free to come and go on a daily basis.

Mr. Sheldon commented as follows:

- As Kari (Director Svanstrom) noted, those would be my full rights as owner of any business in Sebastopol, and the only point that is being addressed here is the addition of alcohol, and by removing me from alcohol, that that condition satisfies that concern
- Yes, what you're saying is true.

Councilmember Gurney commented as follows:

- Thank you, Mr. Mayor and thank you to all of you who have participated in this process this morning.
- Thank you, too, to the many members of the public who have contacted the Council with their points on of view.
- My question is for Debra Burnes from the Planning Commission. The liaison for the meeting.
- I'm glad you are hear and reminding us that she is here.
- My question is an awkward one but it's not particularly focused.
- I'm just wondering how you would summarize the Planning Commission's level of comfort with the decision they made.
- I ask this question because my impression, reading through the minutes, knowing the Planning Commissioners for a number of years, is that there wasn't a full measure of comfort with that decision.
- So I'm checking with you, if you can give me your objective summary, and you're very welcome, if you don't feel comfortable answering the question

Debbie Burnes, Planning Commission Representative, commented as follows:

- No, I'm here to answer. I'm comfortable answering that question.
- I'm here to speak on the entire Commisison, deliberation with the process and why it came to my deliberation.
- So as a Commission, this was very difficult. If you notice, we did put it off from the first meeting.
- That meeting ended in our deliberations said they felt very uncomfortable, however, our first -- our first suggestion was what you were just talking about, which is what if Lowell wasn't on the premises?
- The people opposed of him having the restaurant were really in support of him having a restaurant and even have an alcohol license.
- They just wanted time to do it away where the community members would be
- I did offer that maybe he come back in a year with some of the conditions such as may be being off the premises
- It was very emotional
- We put it off and asked Kari (Director Svanstrom) and her team to work with them and see if they could come up with some strategy that would work for both entities.
- One of the things we were concerned about, is being a small business owner, the inability to hire people is Just incredibly difficult.
- They were confident that they had all the assets they needed.
- So that's where we left it.
- When we came back to the next meeting things had changed.
- It was very emotional for everybody on the Planning Commission. It was not an easy decision at all.
- All of the Planning Commissioners did it with a little bit of reservation. Some for different reasons.
- But they felt confident to move forward, that as stated several times during this, that he would be in a fish bowl, under a microscope, and so that would kind of eliminate some of the ability to have something happen.
- We did read a quote from Paul Fritz, where he had said that often, women don't pursue legal means for all kinds of personal reasons.
- We didn't feel it was our place, nor do we have the right capacity and qualifications to really take into account whether we thought these allegations were putting Mr. Sheldon under is he guilty, is he innocent?
- We were looking at the evidence that was supported, and was it something we felt the public would be safe with.
- So to answer your question, yes, it was not clear that everybody was gung-ho, this is great.

- Let's do it, we feel confident.
- It was with a lot of concern and it was very difficult deliberation.

Councilmember Glass commented as follows:

- I believe this is a question for our City Attorney.
- Are allegations of and conviction of sexual harassment generally a civil matter or a criminal matter?

City Manager/City Attorney McLaughlin commented as follows:

- I'm not a criminal law expert whatsoever.
- Generally, they are adjudicated in civil court.
- I think you used a word that was stronger than allegations, allegations can be made through any forum.
- Through the newspaper or e-mail, a number of ways you can express allegation.
- If a person's going to pursue an action, it would normally be in civil court.

Councilmember Glass commented as follows:

- The individuals that are concerned with Mr. Sheldon's behavior were to file a civil suit, and if they were to prevail, would that then be cause for the ABC, the state's alcohol board, to reject him as to having the ability to get an alcohol license?
- Because when this was discussed, it might have been Mr. Haroche, someone spoke of the ABC doing the licensing, and the licensing is related to a criminal check.
- The ABC does a background check when it issues a license.
- So one of the things that was talked about was that there is an investigation of any criminal convictions.
- What about civil convictions?
- What I'm trying to establish here is what recourse do people who allege a pattern of abusive behavior have to prevent someone from getting an alcohol license?
- Is ABC only going to look at criminal behavior, a criminal conviction, versus a civil?

City Manager/City Attorney McLaughlin commented as follows:

- I am not an expert on the ABC and what procedures they follow. I do know they have very broad discretion. We have seen that exercised.
- So in that sense, I think that they can provide a high level of protection, as we stated earlier, because they do have broad discretion.
- However, we have to understand that a criminal conviction, it is beyond a reasonable doubt.
- Someone would be found guilty on a criminal conviction beyond a reasonable doubt.
- Civil litigation is resolved in dozens of different ways.
- It can involve a payment of money, a suit can be dropped.
- There are a number of ways to resolve it so it can be problematic to look to civil litigation as proof of anything because you don't know why the resolution occurred the way it did.
- There is no that record that you can look to.
- I will just have to say, in a civil arena, it's difficult to use civil cases to make determinations of this type.
- Probably that's the reason for the reference to criminal wrong doing, where it's much more final and understandable.
- But again, I am not an expert on the process that the ABC follows. Only that they have broad discretion.

Councilmember Glass commented as follows:

- The next question is actually a little rhetorical but just for the public's benefit.

- If we were to prevent this license or this use permit from happening, we would only be doing it within the City limits of Sebastopol, and that would not have any impact on Mr. Sheldon's application for a permit in a building that is 100 yards outside of Sebastopol under the county's jurisdiction, correct?

City Manager/City Attorney McLaughlin commented as follows:

- I do not know whether that is correct or not.
- Because as I said, I do know that the ABC has very broad discretion.
- It might be they consider a denial of a permit to affect applications outside of the City limits.
- I could not say for sure that would not happen.
- Again, multiple times, the ABC has very broad discretion. We have seen it exercised before.
- It leads me to that conclusion, so I can't say for certain that would have no impact.

Councilmember Glass commented as follows:

- At this point, how much input did the individuals who have just filed this appeal, how much input did they put into the ABC licensing process?
- The license is for every individual business.
- It is not for "A," a particular piece of property, or "B," a person in perpetuity.
- In other words, they have to get a license from the ABC? Correct?

City Manager/City Attorney McLaughlin commented that is correct.

Director Svanstrom commented as follows:

- It does not run with the land when a business is transfers or goes out of business.
- The license basically stays with the business. It cannot be transferred.
- A license can't travel with a person or a business either.

Councilmember Glass commented to what degree did they interface with the ABC and work to have the ABC reject this license?

City Manager/City Attorney McLaughlin commented as follows:

- As I understand it, the ABC is waiting to see whether the restaurant obtains the alcohol permit before they take action.
- I don't know what interaction there might be the between the present appellant and the ABC.

Director Svanstrom commented as follows:

- That is probably a question best addressed to Ms. Hom-Dawson.
- My understanding speaking with the ABC, which John Jay and I have been doing throughout the process, is they have done the public posting and notice requirements at the restaurant as part of their process, they don't issue an alcohol permit unless the local authority approves it but I believe think have gone through the public comment period.

Councilmember Glass commented as follows:

- So the license has not been issued.
- I actually would like to hear from Miss Hom-Dawson about how they have worked to remedy what they perceive as a bad situation with the ABC.

Ms. Hom-Dawson commented as follows:

- During public comment, a large number of people did write in to the ABC office in Sacramento.
- We wasn't to Santa Rosa, they sent it to Sacramento.
- I have been in contact with the ABC office.
- It is kind of predicated on one another.
- They are in holding, and the process for the ABC license beginning.
- Inspect regards to the earlier question about criminal convictions, we have been speaking with the ABC license because one of the partners does have felony convictions, and we are concerned about that as well.
- A criminal conviction does not necessarily preclude if you are getting a license.
- They take a look at a lot of factors.
- It can affect whether you get a license or not.
- So as the City Attorney says, it's very up to their discretion how they proceed.
- But I believe they are in a holding pattern until this is decided.

Mayor Slayter commented as follows:

- So to reverse to the two main points that the Planning Director noted in the front end of the meeting.
- The two questions that the Council needs to answer.
- The burden of proof, where that rests, and that is with the appellant. Miss Hom-Dawson at this point.
- What we need do is determine whether or not the Planning Commission made an error or did not make an error in their decision.
- Whether or not the conditions as written as approved by the Planning Commission are enforceable.
- My only question at this point is the enforceability.
- So for the City, what would the nuts and bolts on of that be? How would the city adjudicate evidence?
- They are all terms that are not normally part of our language when dealing with use permits and things like this.
- Is someone making a statement to the Sebastopol police department that a condition was seen as being broken? Is a photograph with a time stamp something?
- I'm trying to understand how that could actually work in a day to day operation for the city.

City Manager/City Attorney McLaughlin commented as follows:

- Traditionally, our staff has investigated literally any type of allegation that a permit condition has been violated.
- We get information on that.
- The level of our review and investigation would be likely determined by the information that we have received.
- Something like a photograph can be very strong evidence of some occurrence.
- Allegation is general and kind of vague, a time or something like that might be less so.
- But City staff investigates literally any allegation of a use permit violation.
- We are a small staff but we are also a small City, so that is basically our level of review.
- We investigate all of them to whatever appropriate level based on what the allegation

Director Svanstrom commented as follows:

- I have talked with the Police Chief, and they're willing to do spot checks.
- Also, if they get a notice of a violation they would respond to that.
- They certainly do for noise complaints on a regular basis.
- I will note other than after hours, the Planning Department is certainly the party to notify.

- I have the authority as conditioned by the Planning Commission to revoke a use permit at a staff level.
- Most use permits, if you're going to revoke them, need to go to the decision-making body.
- However this is conditioned that it can be done at a staff level.

City Manager/City Attorney McLaughlin commented as follows:

- I might mention, Mayor, if I could, that is a very, very strong condition. My recollection, it's basically unprecedented.
- We don't have many use permit violations to the point where we could take steps to revoke a use permit.
- But if it's other than what the Planning Director just alluded to, in this case, it would be done at a staff level.
- If it's above a staff level, it could be very difficult to adjudicate a use permit violation so we have very few revocation hearings.
- So that is used in this case. That can, in this case, be done at the staff level.

Director Svanstrom commented as follows:

- Additionally, our code enforcement procedure is confidential.
- In terms of the questions about whether staff would be comfortable taking a picture and submitting or talking with city staff or any other member of the public, the name of the complaint is kept confidential.
- We do it on a regular basis for code enforcement.

Mayor Slayter commented as follows:

- Additional question related to use permit and ABC license.
- Acknowledging we don't have an ABC expert on staff.
- Both permits, both licenses are needed in order to operate an establishment that serves alcohol.

Director Svanstrom commented as follows:

- Correct.
- You cannot do one without the other.

Mayor Slayter commented as follows:

- If the use permit, say, is revoked, due to non-adherence with the conditions of its approval, does it automatically also eliminate the ABC license and vice versa, if the ABC pulls the license?
- Is the use permit completely revoked and would not need to be reapplied for and go through a new process?

Director Svanstrom commented as follows:

- If the City were to revoke the alcohol license, the alcohol use permit, we would notify the ABC as a matter of course.
- Just like they notify us about applications they get.
- My understanding from discussions with the ABC they would then revoke the alcohol use permit from their side as well. If they revoke the alcohol use permit, they would notify us. Depending on what the reason for that is.
- If it is something related to our use permit, yes, we would revoke that.
- If it's unrelated to the use permit, use permits are good in the City of Sebastopol unless they lay dormant for one year.
- So if the ABC license was revoked, and it was for more than a year, and my understanding from talking with ABC is they revoke a license. It's a five-year time period from which it's revoked.

- After non-use for 12 months, the use permit would be null and void and they would have to reapply.

City Manager/City Attorney McLaughlin commented as follows:

- We would not automatically revoke the alcohol use permit because the ABC revokes the permit.
- We would have to see whether it relates to the conditions of approval.
- But it's a moot point because the business would not be able to serve alcohol.
- So the status of the City's license really is not very relevant.
- They're not serving alcohol anymore if they lose their ABC license.

Mayor Slayter commented if a business that is a permitted use with no conditional use permit required, say an attorney or retail store selling socks and shoes, there is nothing in the City code that would prohibit a refrigerator in the back room that has alcoholic beverage or two in it for enjoyment after hours by an employee?

City Manager/City Attorney McLaughlin commented you are correct.

Councilmember Glass commented as follows:

- So I am just trying to redirect my thoughts to what it is we're actually considering here today.
- The Mayor just said a minute ago that we are considering two things.
- One, because this is an appeal of a decision made by the Planning Commission.
- So first, did the Planning Commission make an error in its decision?
- Second, are the conditions enforceable?
- My question is, can somebody expand on that a bit?
- What kind of error could the Planning Commission have made?
- Part of it is what recourse do people alleging this kind of behavior have to remedy a situation?
- Is that really what we're talking about here?
- We're talking about did the Planning Commission make an error and are the conditions enforceable?
- When we talk about did they make an error, what are the parameters of that?
- What are we reviewing?

Director Svanstrom commented as follows:

- In the Planning world, errors are made --often they are related to a procedural component of it.
- Notice not given, or other appropriate procedures, public comment not being followed, public comment not being submitted to the decision-making body that type of thing.
- Time lines in the planning world are the most often and notice that doesn't include all the information that is the most often appealed.
- I don't believe there is any error in that, that the Planning Commission made with their procedures, and in fact, we actually had the City's outside Counsel at the first meeting to make sure that the Planning Commission understood not only that, but also the criteria, the basis, they are limited to in terms of the alcohol use criteria.
- Commissioner Burnes had actually asked a question on a previous hearing that related to a permit for Starbucks at the marketplace shopping center regarding the formula business ordinance and whether that was a criteria they could use, and no, formula businesses are allowed in that shopping center, and as much as you may like or not like Starbucks, it's not something they could consider.
- We had the City Attorney, outside counsel at the hearing so that he could lay out and answer any questions from the Planning Commission so that we did make sure we were doing everything with the appropriate procedures.

- I don't believe there is an error in that, in terms of the conditions of approval that was presented at the July 12th meeting.
- Some of them have an nexus to the alcohol use permit, which was the criteria that the Planning Commission was considering and above and beyond that, that were not necessarily related regarding the HR firm, and managing employees, and having direct supervision, that is Mr. Berlin's responsibility, and that he would not be doing that for a period of at least one year, and it would not be automatically be dropped off one year.
- They would need to come back to the Planning Commission to release those conditions and there is no requirement that the Planning Commission drop the conditions after a year.
- So in terms of the procedures, I don't believe there are any errors in that.
- The second, whether the conditions are enforceable or not.
- In my mind as Planning Director, the requirements for an approval is that they be measurable, that they are clear, that they not be up to someone's judgment. It has a 'who, what, when, where, and who is responsible for the condition' to be enforceable. What is the condition? When does the need to be implemented and those are all included in the conditions.
- There's no judgment - either he's drinking alcohol or he's not.
- Either they retain an outside HR firm or they don't, and it's a yes or no question in those ways, and therefore, as a Planning Director, I believe they are enforceable
- When I originally denied the application, I obviously had some of the same feelings others do, with regards to the health and safety.
- I believe that the conditions that the Planning Commission approved for the project go above and beyond what are generally what you see for an alcohol use permit, and, along with some of the other conditions, and as a person who denied the application originally, I accept the Planning Commission's decision on this.
- There is court of law or criminal proceedings that people can avail themselves as well -- we need to limit our criteria to the alcohol use criteria.

Councilmember Glass commented as follows:

- Isn't the health and safety issue one of the things that Planning Commission evaluated?
- Their decision, therefore, we are could be evaluating whether they made an error in how they calculated the health and safety issue.
- Is that correct?

City Manager/City Attorney McLaughlin commented as follows:

- The health and safety issue is on the table. The phase is found in the resolution.
- With the revised conditions, the Planning Commission determined that the operations of this restaurant with the new conditions would not quote unquote adversely affect the health, safety and welfare of the community.
- This is a very broad standard that the Planning Commission had to and did conclude it would not adversely affect the community in that way.
- Your standard given to you, looking to whether they made an error.
- That is a very, very broad definition of the word error.
- But it's really relating to, was the Planning Commission correct in their assessment that as conditioned, this would not adversely affect the health, safety or welfare of the community.

Councilmember Rich commented as follows:

- My question is a different topic.

- The question I have relates to the statements in Lowell Sheldon's May 11th appeal of the original decision by the Planning Director, and this is probably a question directed to Lowell Sheldon and his counsel
- A statement is made there, that Lowell Sheldon and Pinal intend to ensure that everyone is fully empowered around workplace standards.
- So my question to Mr. Sheldon and his counsel and Jeff Berlin, who apparently will be the operations manager is what is the bullet proof training program?
- What has it been developed to provide for your employees and owners and supervisors and related to that, you reference in the same letter that you are continuing extensive training on sexual harassment.
- You put it in the May 11 letter and one of the conditions is engaging the HR consultant, it think it would be helpful to understand the details of what the programs are for your supervisors and also individually.

Mr. Sheldon commented as follows:

- There are two avenues we are going to take.
- The state of California is required to complete a training on sexual harassment.
- That gives people, including owners, a basic understanding and how things happen and how to create appropriate safeguards between any employees to kind of the different opinions and different backgrounds
- Further, we engaged a firm in Santa Rosa to work with us to do further training, to really hone our handbook, which every employee will be asked to read and sign before working, and that will give them kind of really specific and detailed understanding of how as a restaurant expect our employees, and the final and point fact that is that everybody working at the restaurant will be provided with a number in which they can report any complaint they may have to a third party hot line that will allow them to kind of have distance between the management and any complaint they may have.
- Those three steps are above and beyond what any small business in our community implements.
- It gives everybody full understanding of not only their rights as employees, but also the contours of what sexual harassment means or what other harassment can mean and how to kind of understand that, report that and address it in a productive way.

Councilmember Rich commented then the individual, extensive raining you referenced in that letter?

Mr. Sheldon commented as follows:

- I have done three trainings now, two online trainings and one multi-hour training in San Francisco.
- This was some years ago.
- As well in leading up to this business, Jeff and I have been working with the HR firm to kind of really understand our roles.
- As owners how we can really kind of step outside of ourselves and really understand Jeff running the business but me as someone who is helping him run the business and will open other businesses in the future, it's an on going thing.
- Which I think all business owners should really be engaging in, but given the spotlight on us, we are taking that torch and we're really taking it seriously and we're approaching it through kind of continued conversations between Jeff and I and with the outside HR firm.

Councilmember Rich commented as follows:

- Thank you for that information.
- The program that you're intended to implement for your employees, there are various levels of depth with these sex harassment, sensitivity training programs.
- Do you expect to have on site training from personnel?

- Is it going to be online? What is the nature and extend of the training for the employees?

Mr. Sheldon commented as follows:

- Everyone has to do an online training.
- So that's the State mandate, and then we have incorporated into our handbook our full understanding, which we submitted to the city of the laws around sexual harassment.
- Then everyone will be notified of the hot line as well so they can report anything.

Mayor Slayter called for a break at 11:10 am and reconvened the meeting at 11:30 am.

Mayor Slayter opened the public hearing.

Dennis Colthurst commented as follows:

- Mr. Sheldon mentioned the dust storm he was in the middle of, and from what I'm seeing, the dust storm wasn't created by the City Council or the City of Sebastopol, and the City Council is doing a very good job being careful as they move forward.
- You talked about the trite be on premises of the business, and the right is with the safety of the individuals.
- I'm glad it's looked at.
- One suggestion, if the appeal is denied, maybe they build in a 90-day review window, so every 90 days, a formal review is done to be sure the individuals working there are safe and things are going well.

Kyle commented as follows:

- A few things I want to check in with that I didn't really get questions answered.
- One is, it is maybe up to the discretion of the Council whether or not the Commission was in error in establishing whether or not the safety of the community has been at that time would have been a burden of proof on the applicant.
- Specifically, there were comments raised regarding the oversight, specifically the oversight of the co-owner on another co-owner and the conflict of interest involved in that type of oversight.
- I don't believe it's really addressed, and then additionally, I think it's important to just kind of think about what oversight means.
- Specifically I'm thinking about recent media issues regarding Sonoma State University
- You also heard from the appellant, there was investigation through an HR firm that did come to a conclusion, and statements by owners of previous restaurants.
- So the oversight doesn't have to be in the realm of criminal investigation, and I think it's important to this body to recognize what being appealed today, whether or not, one, the arguments made by the appellant are enough to make a determination on whether or not the Planning Commission was just in their process, and I think it's a really tough decision and I am hopeful that the Council will spend some more time discussing the items that I believe still haven't been addressed entirely.
- Thank you so much for your time.

Marylee Guinon commented as follows:

- Thank you for the opportunity to comment here. I appreciate your serious consideration what is before you.
- I ask that you exercise your responsibility to protect the health and safety of the community per your authority where the City Council on appeal may impose conditions on the applicant or proposed location.

- The Planning Commission and city staff invested time and research in public hearings regarding Piala's application.
- Many of the Commissioners expressed concern that Sheldon failed for years to accept responsibility for his actions.
- July 12th, Sheldon's lawyer acknowledged the perceived conditions, and divorced Lowell from alcohol.
- I ask whether you consider if the approved conditions acknowledge the risk in the community by creating an access with Sheldon being on site.
- The acknowledged risks are unenforceable.
- Requiring a business partner that could negatively impact the business is incongruous, and toxic workplace and illegal practices.
- Many workers of Sheldon's restaurants did not feel safe or empowered to speak out.
- Finally after years, the involve of human resources and an outside investigation, Sheldon was removed from participate and ownership of three Sebastopol restaurants.
- Conditions in mitigation measures are enforceable, and if the City is unable to force such conditions, the project should be judged by the facts without the mitigations.
- I request that operating if your authority, the City Council can approval the alcohol permit or prohibit Sheldon from entering the restaurant premises.
- Thank you for considering that.

Freddie Francis commented as follows:

- I'm just going to speak briefly and from the heart and I really appreciate that City Council is doing its due diligence to understand the technical factors you want to make decisions about and I want to bring it down to a human level and say there are so many instances of Lowell Sheldon saying he will do something and turning around and doing something different, breaking promises and I also just want to say, the stakes are high.
- Recovery from sexual harassment and assault is a long road and I really want to live in a community that values the safety and well-being of the people who live here, especially women and more vulnerable members.
- Thanks very much.

Steve commented as follows:

- I would like to just speak briefly to the issue that the conditions of approval are unequivocally unenforceable and therefore an error was made by the Planning Commission
- It requires the enforcement be the sole responsibility of Jeffrey Berlin.
- To ensure compliance with all conditions for which Mr. Berlin would be held responsible, his presence would be necessary when Mr. Sheldon is on sight, during and out of regular business hours.
- This is an unenforceable condition.
- Mr. Berlin would have to prevent other individuals and staff and patrons to providing Mr. Sheldon from alcohol beverages on site.
- This is an unenforceable condition.
- Mr. Berlin would have to review and access all communications, verbal nonverbal, direct or indirect, e-mail, text and in person by Mr. Sheldon to ensure that Mr. Sheldon had no contact or influence in any way for any individual, any matter.
- This is an unenforceable condition.
- You cannot condition Mr. Sheldon's behavior.
- You can completely divorce Lowell with any interaction with alcohol, as intended from the Planning Commission.

- This is really leaving two options. Either remove alcohol from the equation or remove Mr. Sheldon from the equation.
- To do your best to mitigate the risk of a nexus, I suggest that the Council either deny the alcohol permit or deny Mr. Lowell access.
- Neither is perfect, but it appears to be the best options available.

Hearing no further comments Mayor Slayter closed the public hearing.

The appellant and applicant were provided an opportunity to respond to public comments.

Mayor Slayter commented as follows:

- We have three options that are laid out in the staff report.
- First is to deny the appeal and uphold the Planning Commission's approval based on the findings for approval, and the conditionings of approval, that is in the resolution that is in the packet.
- The second option would be to deny the appeal and uphold the Planning Commission's approval and include additional modifications to the findings for approval, and the third option that is laid out in the staff report is to uphold the appeal and deny the alcohol permit.
- We can either stay the course with the decision of the Planning Commission.
- We could reverse course and uphold the appeal which would deny the use permit or we could deny the appeal and make modifications to the conditions.
- Those are the three options that we have

Mayor Slayter re-opened public comments from the applicant and appellant.

Mr. Haroche commented as follows:

- You heard a number of things for Lowell.
- Two things are critical for the Council to keep in mind.
- First, this is not a criminal charge, nor has Lowell been afforded an opportunity to bring witnesses to refute the gross exaggerations about him.
- The second thing to keep in mind, if Piala were not serving alcohol, none of us would be here today.
- Lowell would be free to open and manage any establishment, have direct supervision over staff and enjoy as much authority, actual or perceived, as any establishment.
- It's only the presence of alcohol that, according to the opponents, poses a threat to the patrons.
- But this project mitigates that risk.
- Lowell will not consume alcohol nor will he serve it.
- He will not hire, fire, train or supervise staff.
- He will not handle any of the HR concerns, nor be privy to them.
- How then, will the presence of alcohol at the premises pose a risk to the community if Lowell will not have an opportunity to handle it?
- How would depriving Piala protect the employees from alleged harassment from the owners.
- You heard some say they are not enforceable. But that makes no sense.
- Jeff has every incentive to ensure compliance because a violation would need to an expedited of a misuse permit and shutter his business.
- The opponents then argue that Jeff would have to be on site all times to keep an eye on Lowell.
- Just as the use permits for other restaurants in town are not there to adhere to conditions, those people understand, as does Jeff, that the buck stops with them, and violation would lead to losing his license.
- Lowell could be barred from entering a restaurant.

- But other than what one describes his presence as an unspoken exercise of power, they offer no actual facts, suggesting that Lowell's occasional dining in public would cause, in their words, life-altering trauma.
- Let's be clear. If Lowell's opponents can prevent him from business, exposing him to the public, they could do so.
- This is not to say that his past behavior was exemplary. He says it was not.
- But it will not make Sebastopol a safer community.
- It would send the unfortunate signal to the business community that henceforth business and land use decisions will be made based on the perceived character of the applicant and not simply of the merits of the project.
- We ask that the City not do down that road and allow Jeff Berlin to open Piala as a full service dining accomplishment.

Ms. Hom-Dawson commented as follows:

- Just to address some of the things that have been discussed in public comment and before.
- I think there was a mention of the police doing spot checks or stings.
- My question, was if this was to mitigate anything from the provisions being broken, how often would the spot checks be?
- From personal experience, I know that Mr. Sheldon has given alcohol to minors after hours and a lot of incidents have occurred after hours?
- Will the Police be checking after hours, before hours?
- I defer to Director Svanstrom, but on paper what is fair and enforceable is not in practice.
- She said it's a question of yes or no, and it shouldn't be based only judgment.
- However, if someone comes to the government, the city government, and says I saw Lowell drinking, basically, what happens is the equivalent to a case to see if they are telling the truth.
- Is this person to be believed if they don't have visual proof. It makes it unenforceable.
- It's much more complicated than that.
- Regarding reports being anonymous. Many people have said, this is a small business.
- If there's one or two employees after work and Mr. Sheldon is drinking and it's reported, I think it's going to be pretty clear who reported.
- Once again, on paper, it sounds like it works.
- In practice, it's a small business and any reporting, it's going to be clear who did that, and they might be prevented from stepping forward because of fear of retaliation, and based on comments made by the Planning Commission in the last meeting, it sounded like they expected the community to police that.
- My question, it's instead done by the police through spot checks, if they made the same decision or if they had an influence on the decision whether they give the provisions of now.
- I would like to add when they mention the bullet proof training, as the former marketing director for the restaurants of Mr. Sheldon, I was the one who tried to institute sexual harassment training in all the restaurants.
- I felt it was needed and I know that a handbook and sexual harassment training for an hour, two hours for managers is literally the bare minimum by California law.
- I hardly call it a bullet proof strategy.
- It didn't work for the old restaurants and I'm in the sure why it would work for the new ones.
- I think this is a more complicated thing than putting it on a paperer, that it's a yes or no question.
- I think it's more complicated than that, and in response to Mr. Sheldon's lawyer about Mr. Berlin being able to police him, I think that Mr. Levy's letter from the former co-owner of Fern Bar stating that Mr. Sheldon never listened to him.
- He didn't listen to any of the partners. He didn't fix his behavior. He never did anything.

- He has not listened to partners in the past and he continues to do whatever he wants that Mr. Berlin will have any more control of influence towards him, than anyone else has had in the past, so that's all, thank you so much.
- I really appreciate it.

City Council Discussion and/or Deliberations:

Councilmember Rich commented as follows:

- There are two items before us.
- One is whether we feel that the Planning Commission made an error in concluding that the license with the conditioning imposed will not adversely affect the health and safety of the community, and then we have the enforceability question.
- I will dispose of the enforceability question first from my perspective.
- I am not concerned about the enforceability piece.
- I hear the concerns of the community.
- But I lived in the community for 20 plus years and I have full confidence in the City staff and the Police Department to enforce whatever rules need to be enforced.
- We are liquor licenses that protect youth. Those are enforced.
- I have confidence they will be enforced and they will not rely on the public.
- They will rely on the city staff, city police department, and Jeff Berlin, who made it very clear that he is going to be in charge and he is committed to making sure that this restaurant is a success.
- It's not just his claims.
- We know he wants to see his investment produce results.
- The more troublesome topic for me is personally and as a City Councilmember representing the community is the question of error, and health, safety and welfare of the community.
- I don't feel like we need to adjudicate the under lying accusations against Lowell Sheldon.
- That is not our job.
- I read the entire record from the Planning Commission, the Planning Commission struggled with that topic and concluded, as I conclude, that this is not the arena to decide whether these allegations are factual.
- However, our community is a community that listens to concerns of community members and we have a lot of community members that have stepped up to express concerns and they are not simply rumors.
- There was a sexual harassment claim that found merit and actions were taken as a result at the front bar.
- We have a former partner, Sam Levy, who sent us a letter expressing concerns.
- We have multiple partners who have said they do not want to partner with Lowell Sheldon.
- Those are all facts.
- We also have many individuals who have stated that their interactions with Lowell Sheldon have created a sense of risk for them.
- These are perceptions that are supported by independent facts and they are perceptions of our community members.
- I have to say, he did admit to it, the statement sit on daddy's lap does not sit well with me.
- There is more than just innuendo. There is more than rumor but give credence though the fact that Lowell Sheldon's involvement may affect the health and safety of the community.
- I am impressed with the process, the Planning Commission engaged in and the Planning Director, the city staff in coming up with the conditions that were proposed.
- I'm impressed by the willingness of Lowell Sheldon and his Council to agree to those conditions.

- I understand they may go beyond what would have been technically required but we are a small town, and this small restaurant wants to succeed in our town.
- The only condition that I would add, the only client where I see a possible error in this result is the issue of Lowell right to enter the premises, to have free access to the premises. Kitchen, front of house, any where, any time.
- I hear the concern of the public.
- I also hear the need of the business owners including Lowell Sheldon to succeed.
- That has to be balanced.
- But in the June 28th conditions, there was one that addressed that. The July 12 decision that was voted on, there was no such condition.
- So my proposal would be that we accept the proposal from Bob Haroche presented at the June 28th hearing.
- Maybe it's not clear enough. Maybe it's not perfectly articulated but Lowell's right to enter the premises would be no different than any other in the public.
- To go as a customer, he would not be able to consume alcohol.
- I would leave the conditions by the Planning Commission and my proposal is that we add the condition, be Lowell's right be no greater than any one else in the public.
- I feel that would balance effectively the concerns of the public.
- I see 25 signatures on e-mails that came in, and yet provide the restaurant owners a full and complete opportunity to succeed and serve their wonderful food to our town.

Vice Mayor Hinton commented as follows:

- I did not ask a lot of questions frankly.
- There was a lot of questions asked by my colleagues so I felt it was fine to sit back and listen.
- I have read all the documents we received and the letters.
- Admittedly, letters from people I know and respect.
- Some of those letters, when you see the signatures, you know they are not just community members but they are community members who have been here, like myself, for a listening time.
- They have eaten at restaurants.
- They know a lot of the people involved and I have no reason to believe that what I read with signatures is not the truth from those people's perspectives.
- I also took a chance to read the newspaper articles written when the story came out.
- My colleagues said it well.
- The sit on my lap, daddy's lap, for any woman, is just a complete insult, and anyone who would say anything like that just doesn't have any self-awareness to how offensive that is to whether it's a woman or a man.
- I worked in a restaurant business myself. That is how I started, put myself through college and started my career.
- I cocktailed at night. Harassment happens on so many levels.
- It's not just sexual harassment and it doesn't just involve women. I want to address that too.
- I do have to say though, I am not interested in overturning our Planning Commissioner's decision in this respect.
- I have listened. I have an HR background.
- I do feel confidence in the outside agency managing with a hot line HR matters
- I feel confidence with our police department.

- Having lived in this town for many, many years. The police department is around. Does stop by, does spot checks.
- I do think it's a yes or no answer.
- I do like the suggestion, if I can make one, from a background in law enforcement, maybe not three months but maybe a six month, we could have a staff review of our conditions and just make sure everything's on track.
- That is one thing I might add.
- It's a very difficult decision and I empathize with all the people that have been harmed by bad behavior by one of our community members.
- But it just feels to me that we're in the wrong court here.
- We're City Councilmembers.
- And add to it that generally, these decisions about land use are made by the Planning Commission.
- So it just feels like this is the wrong court for this decision.
- This may not support the restaurant verbally, I feel like I want to back our Planning Department who analyzed this and made the decision for the first time.

Mayor Slayter commented as follows:

- I will share a few thoughts.
- The amount of animus and an accusation that is in our pact in total is almost 400 pages for this meeting.
- I know that I went back and looked at minutes which were not part of the packet from Planning Commission meetings when the statement was made of 600 pages.
- I think that is a gross under estimation of just the amount of quantity of paper and the record on this item and the amount of human energy that has been required, the amount of money that has been required on all parts from all parties.
- The city fee to file an appeal is not inconsequential to me that speaks to the seriousness of the appellant.
- That is not a minor point to me.
- The fact of the record, I acknowledge that this is not a court of law.
- These accusations have not been heard in a court of law under oath. But that does not mean they are not true.
- The quantity and veracity of the comments and accusations, I cannot dismiss them, and they call me great concern.
- I did understand that the letter of the conditional use permit is to protect the health, safety and welfare of the community and I'm paraphrasing there.
- It's not about some amorphous community at large.
- Community is made up by individuals, and those individuals include those who are employed in the restaurant industry.
- They are those who employed in any industry.
- Those are people, and the acknowledgment of misbehavior on the part of Mr. Sheldon is in communication from Mr. Sheldon.
- There is acknowledgment of misbehavior, and at the same time, there also appears to be a dismissal of the accusations.
- So I'm not quite sure what to believe there.
- One thing, it's one thing, on the other hand, it's different.
- All in the same letter.
- So the question before the Council is about the use permit.

- I have no problem with granting Mr. Berlin the conditional use permit in order to operate what is in so many ways no different than any other restaurant in town that serves wine and beer with meals.
- I have no problem at all with Pila moving forward.
- I have no problem with the conditional use permit.
- What I do have a problem with is the potential for additional harm to come, to community members and in this particular instance, I am going to agree with Councilmember Rich that the removal of that condition, I noted it as well, and I am I am interested in having that condition replaced and the conditions of approval.
- My question at the start of the meeting when we were dealing with factual questions if this were a dry restaurant, as it were, that does not mean that a refrigerator in the back room could not contain alcoholic beverages that could be consumed after hours when the door is locked and nobody can spot check with any great ease.
- I'm not saying it couldn't happen but it's a little more difficult, I think.
- So it's the opportunity to harass, so to me, going back to the condition where Lowell Sheldon would have an opportunity to enter and no greater than a member of the public and they are positive steps.
- The life work that has gone on is apparent and I want to acknowledge that on the part of Sheldon, but I cannot ignore the accusations from members of our community that are just troubling in so many ways and I will stop here in a minute.
- But I also have to say that I'm looking that through the lens of somebody who is sitting in a seat with more privilege than is due.
- I'm a straight white male in America.
- That is unfortunately a position that brings with it the privileges and the inherent idea of supremacy, and I cannot understand what it feels like to be in a position where the accusations need to be leveled, the likes after what we have here, and it feel like it needs to be acknowledged and the responsibility to be a voice and to say things proactively that are important to try to level things up a bit.
- Those are my thoughts and I could agree with accelerated review, probably a reasonable amount of time.

Councilmember Glass commented as follows:

- So this is certainly is a difficult issue.
- For me the issue comes down to kind of process procedure versus outcome.
- I have concerns regarding process, procedure, which are related to burden of proof, liability, who did what when.
- All these things.
- But what we have is a preponderance of letters, complaints, et cetera, not to mention that this is a small town.
- I know a lot of people in that circle.
- The preponderance of opinions about Mr. Sheldon's very problematic behavior.
- So all of those things are out there, however we're not an entity whose job is to render decisions and go through burden and proof and all that stuff.
- On the other hand, I am very concerned that protecting workers and people who are no jeopardy to protecting the future, and I am very mindful of our Council's responsibility to protect the health and welfare of our community.
- Particularly in this case the workers in this business.
- So I do find it difficult for us to be adjudicating the validity of all the accusations, which I have to say from a purely objective standpoint, there's so much of it.
- It's kind of hard to say the smoke is fire is really happening here.

- It seems like there are so many complaints that we would have to be blind and deaf to not see there must be certainly a large enough of problems with behavior in the past and that many people have been affected by it.
- This is an imperfect body or solving this problem.
- When there is no obvious vehicle for solving these kinds of problems, then government, particularly local government, has the responsibility to take a position that is it is going to use the tools it has at hand to prevent the problems from happening in the future.
- I think it is our responsibility as a Council to protect the public, to protect the health and welfare of the public and to protect the workers working in the restaurant.
- So all that said, I concur with Councilmember Rich's and Mayor Slayter's position, that we should reinstate the condition that Mr. Sheldon not have any access to the premises other than as a customer.
- He's in front of house. He doesn't consume alcohol. He is not hanging out in the back. He is not taking shifts.
- He is not doing any of these things that could put him in a position to compromise the health and welfare of members of our community and specifically the workers in the establishment.
- I'm saying that because this is a tool we have at hand to remedy the problem.
- It seems somewhat imperfect to me.
- I actually do wonder why has all of this going through the labor relations board?
- Why did this behavior not go through labor relations and I also would have questions regarding whether the alcohol board, whether they actually take into conversation functions and complaints that go through the labor relations board.
- The whole process seems very muddy.
- It seems very unclear and what it points to as another case of government, having marshmallows on their feet and in capacity to solve what are on going problems.
- I think that women are tired of hearing, well, we didn't solve this because some bureaucratic problem.
- The burden of proof. The legalities.
- We have at hand a way to mitigate the issues and I agree, Councilmember Rich, I think we should reinstate the no access to the premises, other than as a regular customer, and I also agree with both Councilmember Rich and Mayor Slayter who indicated their agreement with a member of the public that commented we should have a shorter process to check in.
- Councilmember Rich and Councilmember Slayter were thinking maybe a six-month check in process and I would say the first two check-ins be every quarter and then go to a six-month process.
- So that would be my indication, how I would support our actions.
- I think that this does address the concerns of many members of the public and protect the workers, protect the community while still not putting our city in legal jeopardy of completely overstepping our authority, and we get the desired result, I would think.

Councilmember Gurney commented as follows:

- Thank you, to all of you for your comments. It's very helpful to me to hear your reasons.
- I found all of this quite overwhelming, as we went through all of the material and sort of relived all the Planning Commission and staff dedication to this issue as well as all the public comment.
- The comments coming by e-mail in the last week, pretty heavily.
- So let me just speak generally first.
- I think we heard quite a lot of hurt expressed.
- Injury to our community, members, injury to employees.
- It's our responsibility protect our people here, whether they live here or work here or are customers here, to protect them from that sort of injury.

- I have strong trust in our staff as well. The Planning Department, the police department.
- But I don't believe in the real world, the every day world, the members of the local government can actually do the daily enforcement.
- We have any number of situations where our requirements are violated and we don't have time, there is no one to go out and enforce.
- So because of that lack of confidence, not in our city people so much as in bureaucratic situations, I think we have to take the extra step now to protect our community and look after the people here, and that would be in the case that we suggested from Councilmember Rich, putting Mr. Sheldon in the position of regular customer, although he may be continuing as a business owner, for him to have access just like any member of the regular public.
- A detail that keeps him out of the back of the house, that keeps him out of the after hour situation, and by that condition, we are putting reasonable protections in place without judgment but actions as well.
- As to the review, whether that's in six months or a year, my concern is that if there are not situational problems revealed by that review, that the conditions are not immediately lifted that three-months, six months, nine months over a year.
- I think it's really important to engrain the protective process in the business itself and make sure it's going smoothly.
- So I wouldn't be uncomfortable if a six month preview reveals no problems, it's good.
- We have to keep our bureaucratic eyes on the project and make sure the culture of safety is really entrenched in this particular business with there's particular people.
- So I like the additional condition, going back to that one of customer status only, and I also would suggest that the six-month review be one that does not relieve the applicant immediately from the condition.
- That roll out for at least a year and potentially longer.
- Because I think we want to make sure we are thorough in our duty to protect for health, safety and welfare of our citizens.

Vice Mayor Hinton commented as follows:

- So after hearing from everyone it seems like there's four Councilmembers that want to go back to add the original provision, which my understanding is my proposal at six-month review was not to consider lifting whatever provisions we put in place, but more a check in.
- But I understood that these things have an opportunity to be lifted at a year.
- I would like to hear from the City Attorney about as this legally seems reasonable and if these things -- if there is no violations, would be lifted at a year's point, if that was the full proposal or just a review that would come before staff.
- Every six months or annually.
- Could we hear from the City Manager please to clarify?

City Manager/City Attorney McLaughlin commented as follows:

- The condition that the Planning Commission wrote and approved did state that the Planning Commission could modify the conditions of approval in a year to allow Mr. Sheldon to consume alcohol on the premises as a member of the dining public.
- As I understood, the Council's desire for a six-month review is to assure compliance with all the conditions, and have staff review the business operations to make sure that the conditioning imposed through this hear processes are being adhered to.
- I think that is two separate sub jects.
- One requires return to the Planning Commission and it's limited. Simply allows him to consume alcohol.
- The other one is to assure conditions are being adhered to.

- In other words, a little more stringent enforcement process where the staff must review the operations on premises and do an on premises inspection to make sure that the conditions are adhered to.
- That is what it understand what the Council is looking towards.
- If it's different, Council should clarify that.

Vice Mayor Hinton commented I just was curious about whether the conditions in his mind are legal conditions that we can impose on the applicant.

City Manager/City Attorney McLaughlin commented in my opinion , yes, they are defensible.

Mayor Slayter commented as follows:

- The zoning ordinance municipal code has again, I will paraphrase it basically says that Planning Commission or City Council in an appeals situation has the ability to add conditions.
- It's a very broad statement.
- I think that's an important component of this.
- The lack of abuse in that kind of statement over the years in my experience slopes it's taken very seriously, and unrealistic or heady conditions are not ever taken up.
- I think this would fall in that category.

Mr. Haroche commented as follows:

- Has a question about the new proposed condition.
- Would this the proposed condition allow Lowell to be in back of house during nonbusiness hours?
- So if he came in after hours to fix things or to talk and walk around the premises with his partners, would that be allowed?

Mayor Slayter commented we will work that out.

M. Haroche commented that's what we would like.

Vice Mayor Hinton commented as follows:

- Just thinking this through. I'm curious what the restaurant hours are going to be.
- Is there a date that of the week that restaurant will be closed?
- Can the restaurant owners can answer that?
- It may make sense related to the question that was just asked.

Mr. Sheldon commented we will be closed two days a week.

Vice Mayor Hinton commented as follows:

- Clarified two days a week they would be closed
- So we could add reasonably a condition where Lowell can be present with his business partner and to fix things during closed hours where employees are not present.
- Probably reasonable.

Councilmember Rich commented as follows:

- Going back to comments made by Jeffrey Berlin.
- He was pretty clear in statements at the June 28 meeting he didn't feel that it was necessary to have Lowell Sheldon involved at all in the operations of the restaurant.

- So could we ask the person who is going to be running the restaurant, to what extent he would need the support of Lowell Sheldon?

Mr. Berlin commented as follows:

- In terms of daily operations, no, I plan to run everything myself.
- But certainly, as far as if equipment, machinery, structural issues come up, that is something that I would certainly have hope to rely on Lowell for helping me deal with those things as they came up.
- As I am not so inclined fixing things.
- That would be something that I would certainly rely on him for.
- But everything else, I fully intend to be running all aspects of the business and staff management myself, and with if our business is successful and grows, I will be hiring a manager or assistant manager to help in my absence.

Councilmember Rich commented as follows:

- The proposal I just heard, I think that we should probably ask Mr. Berlin about.
- Is to allow access by Lowell Sheldon on days when the restaurant is closed and employees are not present.
- I think if that is one of the exceptions we considering, we need to find out from Mr. Berlin if that is workable for him.

Mr. Berlin commented as follows:

- I'm trying to imagine a worst-case scenario.
- If we are open Tuesday through Saturday, Tuesday, we have a major structural issue that I would have to wait until Sunday to get it dealt with.
- Or the alternative is hiring some kind of plumber or outside person to come and fix it, where it would be a simpler fix to have Lowell come and fix it the next morning before any employee shows up.
- That that would be potential serious expense on our part, or there could be a simple fix where he was not on the premises interacting with other employees early in the morning, to that effect.

Councilmember Rich commented as follows:

- Maybe one thing we might consider is modifying this additional condition to revert back to the language that the Planning Director had, in the June 28 hearing.
- Which would then be the language we talked about, that Lowell Sheldon would have no greater access than members of the public
- I was responding to the concern that we heard from Jeff Berlin about urgent or emergency situations, and I was looking back at your June 28 language, where you had Lowell Sheldon shall not under take any work within the subject unless required by unanticipated merges, something like that.
- So my question is whether Planning Director Svanstrom had modifications to address the urgency need.

Director Svanstrom commented as follows:

- I think that the proposed language that is on the screen
- Lowell Sheldon's right with access to only public areas and Lowell Sheldon may be on premises when the restaurant is closed and when no employees are present.
- Other owners may be present.
- I believe that that covers the concern.

Councilmember Rich commented as follows:

- So then the idea would be in the evening after the business closes. In the morning before it opens, I believe.
- I have to point out this does provide access to Mr. Sheldon that is beyond any urgent needs.
- Basically what we're setting up, just so we're clear on it, when the business is open, he will be, have access that is consistent with members of the public.
- But that outside of the hours, he will have free access, so long as an owner is present and no other staff members are present.
- I have to say, didn't we have an enforceability question? I have to put it out there. I didn't know how to resolve it.

Councilmember Gurney commented as follows:

- I don't think that is our intention.
- I think the conversation is emergency situations related to maintenance. Not emergency related to during open hours staffing, right.
- So perhaps we add words Kari related to, emergency maintenance, repair, something like that. Emergency related to repairs and maintenance.
- Mr. Berlin was saying he's not the repair guy. Mr. Sheldon is the repair guy.
- What we're trying to protect the employees from is from encounter at the site of employment or during employed hours.

Councilmember Rich commented as follows:

- I think it might be too restrictive for Mr. Berlin. But I'm interpreting what he has.
- He may have repairs that are not emergency repairs.

Mr. Haroche commented as follows:

- Not as drafted would it work for us.
- Previously, we had the proposed language was that Lowell could be on premises outside of working hours.
- To meet with his partners, to walk around, no staff present.
- Now it reads which he be only on premises after working hours, after business hours, if he is doing repair work.
- I thought what we are going, during working hours, he one allowed no greater access than a member of the public, unless that emergency repairs need to be taken to repair the infrastructure.

City Manager/City Attorney McLaughlin commented as follows:

- I recommend that you consider deleting the yellow highlighted wording on the screen
- Any condition that you impose at this point in time must be rationally related to a concern that is expressed and sustained.
- I don't see how you can require it be solely limited to maintenance given the concerns that have been raised when the restaurant is closed and no employees are present.
- To me, the restrictions on closing the closing the restaurant and employees not back present has a nexus and meets the concerns that have been expressed.
- I don't see how the maintenance restriction adds to that. So I recommend you remove the yellow highlighted phrase.

Councilmember Rich commented I would request that when Lowell Sheldon is there, at least for the first year that Jeff Berlin also be required to be present.

City Manager/City Attorney McLaughlin commented as follows:

- All of these are arguable. Either way.
- I think that can be defended, yes so long as you delete the yellow highlighted language.
- I think given the argument there would be that Jeff Berlin is the individual who is given the license.
- He's the one who is committed to ensuring the conditions be met.
- His presence when Lowell Sheldon is there helps ensure the conditions will be in fact be met.

Ms. Hom-Dawson commented as follows:

- I just want to say I appreciate all the work you're doing.
- The original statement of Lowell Sheldon's right to enter the premises should be no greater than any other member of the public. Period.
- You wouldn't have a member of the public come in and fix the toilet. You wouldn't have them come in after hours.
- They would come and eat and they would leave, and I believe that that would be great to help mitigate the risk, but I think, and this is obviously just my personal opinion, once you start adding in caveats, it becomes easier to blur the lines what is enforceable and what is not.
- Any member of the public. They are not fixing toilets. There are plumbers that would be called if there is an emergency.
- I just had to say something.

Vice Mayor Hinton commented as follows:

- I'm a little bit going back to, as I think the city attorney pointed out, really the letters we received is that Lowell is a danger or has hurt people at employee level.
- I really have to say that if it's a Sunday or Monday, that is why I brought it up, when the business is closed and I can see they may have to meet with bank people or vendors or partners, I really don't think that his ability to hurt staff members at that point or to have any influence at all is taken away.
- So I really want to be fair and stay in our lane on this one.
- We might have personal opinions but really, it comes down to the original argument, which is that his bad behavior has been directed to employees and I feel like that in statement when the business is closed and that is on the two days or before or after hours when no employees are present, I think that at that point, we have done our part, and we have protected the employees or future employees of the restaurant.
- I would like that original language put back in, that is my request.

Mayor Slayter commented as follows:

- That is advice of the city attorney and I heard members agree with that.
- I don't think I heard an issue with during business hours, Mr. Sheldon's right to enter the premises should be no greater than other members of the public, and the condition he cannot consume alcohol on site. Even though members of the public could.
- The sentence I think the Council is working on now is currently written as Lowell may be on the premises when the restaurant is closed and no employees are present.
- Should it just be Monday and Tuesday when the restaurant is closed?
- I would write policies when the restaurant is closed, if they change their hours so they are also not open on Wednesdays, that would be allowed would having to come back to the Council to modify the conditions.
- I think there was a question of whether owners can be present or other owners shall be present or Jeff Berlin should also be present.

Vice Mayor Hinton commented we're talking ability the conditions for one year and then the business has a right to come back.

Mayor Slayter commented my suggestion that it require a public hearing and a change of the use permit, which is what it is.

Director Svanstrom commented as follows:

- That is correct, Mayor Slayter.
- That was written in the conditions of approval -- that it shall be processed as an amendment to the conditional use permit.
- It's the applicant that needs to initiate it and it goes to a public hearing.

Mayor Slayter commented as follows:

- I want to also make clear, I was not just talking about the days off.
- I do see it as reasonable before the restaurant opens.
- A lot of restaurants don't open until 11:00 A.M. in the morning.
- If there are no employees on site in the morning, except two owners, I should see no reason if there is an equipment break to be fixed, which we talked about earlier.

Mr. Haroche commented as follows:

- I think the language is getting closer to what I was going to request.
- What now concerns me is that if no employees are present at 7:00 in the morning to fix a toilet, why does Jeff Berlin have to drive in from Sebastopol from his home to super vise Lowell.
- What harm are we mitigating?
- The perceived harm is saying Lowell can't be there. In the back room while staff is there. But if staff isn't there, what are we concerned about?

Councilmember Rich commented as follows:

- The proposal that Jeff Berlin be there was made by me, and the reason that one of the assurances we have, can conditions, is Jeff Berlin's statements that we will make sure that all conditions will be compliant with.
- So he is the individual who is supervising the activities and if this year, I would propose that to the extend Lowell Sheldon is on site at whatever hour, we will looking to him to make sure the conditions are met and we are aware of a lack of confidence in the public that the conditions will be met otherwise.
- Whole point is to get the business to adhere to the safety regulations of the community and we need Jeff Berlin to buy in so we are convinced it's working.

Councilmember Gurney commented as follows:

- It looks like Kari is asking us to make a choice between every quarter for the first two quarters and then in the six months or just in a six month interval.
- Am I reading it right?

Mayor Slayter commented as follows:

- I heard both mentioned but a clarification on that would be great and any motion or discussion.
- This appearing reasonable.
- Two quarterly check-ins and then six months from there forward for a period or do we want permanent?

- Six months I believe, it's not an onerous amount of time as a requirement.

City staff provided the motion verbatim and displayed the motion on the screen as follows:

- Lowell Sheldon's right to enter the premises shall be no greater than any other member of the public (during business hours, as a customer with access to only public areas). Lowell Sheldon may be on premises when the restaurant is closed and no employees are present (Jeffrey Berlin shall also be present).
- Staff shall review the CUP after the restaurant commences operations to ensure conditions of approval are being adhered to as follows:
- Every quarter for the first two quarters then every 6 months thereafter.

MOTION:

Councilmember Rich moved and Councilmember Glass seconded the motion to deny the appeal, uphold the approval with all findings/conditions except as the modified conditions below:

Modifications to conditions of approval:

- Lowell Sheldon's right to enter the premises shall be no greater than any other member of the public (during business hours, as a customer with access to only public areas). Lowell Sheldon may be on premises when the restaurant is closed and no employees are present (Jeffrey Berlin shall also be present).
- Staff shall review the CUP after the restaurant commences operations to ensure conditions of approval are being adhered to as follows:
 - Every quarter for the first two quarters then every 6 months thereafter.

Mayor Slayter called for a roll call vote. City staff conducted a roll call vote.

VOTE:

Ayes: Councilmembers Glass, Gurney, Rich, Vice Mayor Hinton and Mayor Slayter
Noes: None
Absent: None
Abstain: None

City Council Action: Approved to deny the appeal, uphold the approval with all findings/conditions except as the modified conditions below:

Modifications to conditions of approval:

- Lowell Sheldon's right to enter the premises shall be no greater than any other member of the public (during business hours, as a customer with access to only public areas). Lowell Sheldon may be on premises when the restaurant is closed and no employees are present (Jeffrey Berlin shall also be present).
- Staff shall review the CUP after the restaurant commences operations to ensure conditions of approval are being adhered to as follows:
- Every quarter for the first two quarters then every 6 months thereafter.

Minute Order Number: 2022-
Resolution Number: 6742-2022

Mayor Slayter commented as follows:

- This was a very unusual item for the City Council.
- It's a difficult topic for the City Council.
- This is not our normal fare.
- I think that the ability of the City Council to take a defensible action has been demonstrated and we have an administrative record that shows that there are safeguards in place, that we are protecting the health, safety and welfare of our community.
- That said, I continue to have concerns, I continue to worry not just about this particular intense and this set of facts and circumstances but at large across society, that we are unable to protect those who need protecting, that we are placing those who are vulnerable in positions where they may be taken advantage of or abused, and we're a small city and we have one small item in front of us.
- My heart breaks and I wish we would figure out as a community, as a society, how to do better so that will end this item.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Speakers are allowed to speak for a maximum of three minutes so that all speakers have an opportunity to address the City Council. Power point or visual presentations for public comment shall not be permitted unless approved by the Agenda Review Committee two weeks prior to the requested meeting date.

Speakers may not "yield" a portion of their allotted time to others.

The Mayor has the authority to limit or extend the time allowed for speakers dependent on the number of speakers in attendance.

The Mayor can poll the members of the public for an indication of the number of people wishing to speak, then call on individuals to speak.

It is the goal of the Council to conclude the public comments portion of the agenda within 20 minutes. If the public comment period exceeds twenty minutes, the presiding officer, typically the Mayor, reserves the right to reduce the time per speaker or carry over public comments to after all business items are completed.

The City Clerk will monitor the time for public comments and inform the speakers when the time limitation has been reached.

The Mayor could survey the members of the public, as appropriate, to move agenda items up or back to address the members of the public items of concern.

Public participation is encouraged on all public agenda items.

Council and staff will treat participants and each other with courtesy. Derogatory or sarcastic comments are inappropriate.

The public will likewise be encouraged by the Mayor to maintain meeting decorum.

In Council meetings when citizens are agitated, the Mayor may call a short recess to calm the situation.

If a member of the public is unable to attend the Council meeting, written communications may be sent to the City Clerk by e-mail or by regular mail. Communications received after distribution of the agenda packet will be made available to the Council at/or as soon after the meeting.

Bob Angel commented as follows:

- I think there is a typo in the resolution that you just passed.
- The Councilperson said that the findings of the previous part of your department should be upheld but when it was typed, it said the appeal.
- First it said the appeal will be denied and it uses the word appeal when you meant to say findings.

Director Svanstrom commented as follows:

- To clear up that verbiage question.
- Yes, so I did have that incorrect.
- I believe the motion readily the city clerk was correct.
- Deny the appeal and uphold the approval
- Motion is correct.

ADJOURNMENT OF CITY COUNCIL SPECIAL MEETING

August 31, 2022 City Council Special Meeting will be adjourned to the September 6, 2022 City Council Regular Meeting at 6:00 pm.

Mayor Slayter adjourned the August 31, 2022 City Council Special meeting at 12:50 pm

Respectfully Submitted,

Mary Gourley
Assistant City Manager/Attorney/City Clerk