



CITY COUNCIL AGENDA REPORT

MEETING DATE: December 5, 2006

ITEM NUMBER:

SUBJECT: REQUEST FROM TRINITY BROADCASTING NETWORK (TBN) FOR APPROVAL OF FILM PERMITS

DATE: NOVEMBER 27, 2006

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: CAROL PROCTOR, MANAGEMENT ANALYST

FOR FURTHER INFORMATION CONTACT: Carol C. Proctor, (714) 754-5688

RECOMMENDATION:

Provide direction on issuance of film permits to Trinity Broadcast Network (TBN).

BACKGROUND:

On a 4-0 vote on April 21, 2003, City Council denied an appeal by TBN of Minor Conditional Use Permit (ZA-02-75) to allow TBN to conduct religious related activities and television programming outdoors at 3150 Bear Street. The denial was based, in part, on testimony from residential neighbors to the south and east of the TBN property. In adopting its findings, the City Council determined that "...the use is not compatible and harmonious with uses that exist in the general neighborhood..." and "...approval of any additional outdoor uses would create an unreasonable incompatibility with the adjacent residential use." (See Attachment 1)

Last November, a film permit application request for a TBN Christmas special was received by the City Manager's Office and inadvertently approved by the Planning Division. The film permit was for a 1-day shoot, from 5 pm-8 p.m. Staff did not receive any complaints from the neighbors on this film shoot.

This November, TBN filed four separate film permit applications for four, 2-day film shoots (prep, filming, and strike). On November 16, the applicant's representative, Vanessa Viehe, was advised that the film permits were denied based on City Council's action on ZA-02-75. A letter was sent to TBN on November 21, 2006, confirming the denial (see Attachment 2). TBN was advised in the letter that it could request clarification of the Council's previous action with regard to filming. Subject to Council action and direction, this could allow for film permits to be issued for the remaining two applications (Michael Sweet and Moya Brennan Christmas Special film shoots – see Attachments 3 and 4, respectively). TBN's request is included as Attachment 5.

ANALYSIS:

Film permit applications are submitted to the City Manager's Office and coordinated through the Management Analyst. The City's Film Permit Review Committee, consisting of the Analyst and

representatives from Police, Fire, Transportation Services and Risk Management, reviews each application. Location, time frame, equipment, crew size, noise, lighting, stunt work, special effects, use of animals, hazardous materials or other elements proposed in the filming are noted and potential impacts considered. Staff from the Planning Division was included in the review of all TBN film permit applications because of TBN's history with regard to noise and lighting complaints from neighbors.

TBN stated in its November 22, 2006 letter that there will be no amplified noise in their film shoots, and that noise and lighting for the filming will not carry-over to residential neighborhoods. The filming is to occur directly adjacent to and south of their building. All filming is proposed to occur from 5:30-9:00 p.m.; TBN has also stated in its letter that the filming can be shortened to conclude at 8 p.m.

The previous film shoot in 2005 had operational conditions placed on the film permit (Attachment 6): One addressing production lighting/lights and the use of heavy equipment and lifts; one prohibiting outdoor speakers; and one advising that noise associated with the film shoot be within the Costa Mesa Noise Ordinance. These conditions were taken from TBN's approved operations plan (PA-96-19) to ensure that filming does not impact surrounding properties. The film shoot was for 3 hours and very limited in scope. No complaints were received by the City following this filming.

Absent the City Council's findings in the denial of ZA-02-75, staff would process these film permit requests just as any other permit application. Staff has identified appropriate conditions of approval such as those noted above that should provide sufficient protection for adjoining residents. Yet, because of the City Council's findings of incompatibility, this matter is being brought back for policy direction. This is not a request for the City Council to approve the pending film permits, but rather policy direction as to the permissibility of issuing such permits to TBN in light of the prior use permit denial. If the City Council is of the belief that some limited outdoor filming would not be intrusive to the neighborhood and would be permissible despite the denial of ZA-02-75, a motion to this effect should be adopted. On the other hand, if the City Council believes that such outdoor activity is absolutely incompatible with the surrounding land uses, direction should be given to City staff not to issue film permits to TBN pursuant to the prior denial. In summary, this is policy direction as to whether some limited outdoor filming by TBN is acceptable to the City Council. If problems do arise and are not abated, staff has the discretion to withhold the issuance of future permits.

ALTERNATIVES CONSIDERED:

Do not grant outdoor activities or a limited number of film permits for TBN.

FISCAL REVIEW:

No fiscal review is required.

LEGAL REVIEW:

The City Attorney has reviewed the Council's prior findings and believes that staff decision to deny the requested film permits is supported by the prior findings and decision on ZA-02-75. The City Attorney also believes that Council may, consistent with the prior denial, determine that time limited individual film permits may be issued, subject to appropriate conditions, should the Council determine that periodic filming is not intended to be prohibited by its prior action.

CONCLUSION:

City Council needs to determine whether they wish to prohibit any outdoor filming or allow limited filming with specifics on number of film shoots, duration (hours), and any other ancillary conditions on the TBN property.

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Management Analyst

THOMAS R. HATCH
Assistant City Manager

KIMBERLY HALL BARLOW
City Attorney (legal review only)

DISTRIBUTION: Ann Shultz, Legislative & Public Affairs Manager
Film Permit Review Committee
Don Lamm, Development Services Director
Mike Robinson, Assistant Development Services Director
Mel Lee, Senior Planner

ATTACHMENTS: 1 [Staff Report ZA-02-75](#)
2 [Letter from Carol Proctor to TBN dated November 21, 2006](#)
3 [Michael Sweet Christmas Special Film Permit Application](#)
4 [Moya Brennan Christmas Special Film Permit Application](#)
5 [Letter from TBN to City Council dated November 22, 2006](#)
6 [TBN 2005 Film Permit \(Charles Billingsley Christmas Special\)](#)