



CITY OF FORT LAUDERDALE

**3rd DRAFT MEETING MINUTES
CITY OF FORT LAUDERDALE
NOISE CONTROL ADVISORY COMMITTEE (NCAC)
FORT LAUDERDALE FIRE RESCUE DEPARTMENT – FIRE STATION #2
3RD FLOOR CONFERENCE ROOM
WEDNESDAY, AUGUST 23, 2023 – 1:00 P.M.**

July 2023 – June 2024

Attendance

Eugenia “Genia” Ellis, Chair	P	2	0
William Brown, Vice-Chair	P	2	0
Ralph Stone	P	2	0
Rocco Ferrara	P	2	0
Steven Hudson	A	0	2
Chad McCoury	P	2	0
Miguel Pilgram	P	2	0
Tim Petrillo [arrived 1:08 P.M.]	P	1	1
Renee Quinn	A	0	2
Dev Motwani	P	1	0

Call to Order & Determination of Quorum

Chair Ellis called the meeting to order at 1:02 P.M.

Roll was called and a quorum was present.

Staff

Anthony Fajardo, Assistant City Manager, Committee Liaison [via Zoom]
Porshia Garcia, Deputy Director, Development Services Department
Katrina Jordan, Code Compliance Manager
Major Victor London, Chief’s Executive Officer, Fort Lauderdale Police Department
Donna Varisco, Executive Assistant to the City Manager

Others

Gary Siebein, Siebein and Associates (virtual)
Keely Siebein, Siebein and Associates (virtual)
Martin Gold, Siebein and Associates (virtual)
Carla Blair, Recording Secretary, Prototype-Inc.

Approval of the July 25, 2023, Meeting Minutes

A **motion** was made by Mr. Brown, seconded by Mr. Stone, to approve the July 25, 2023, meeting minutes. In a roll call vote, the **motion passed** unanimously (7-0).

New Business

- **Discussion of Consultant’s Recommendations and Member’s Comments on New Noise Ordinance**

Ms. Keely Siebein, consultant, greeted the Committee and noted she was joined by Mr. Gary Siebein. She said Mr. Martin Gold would be joining shortly.

Ms. Siebein began the presentation by reviewing the Fort Lauderdale Soundscape Study and highlighted changes. She noted the following:

- Vehicle noise was addressed in additional sections
- Verbiage was added to clarify plainly audible
- Added a Health Effects of Noise section
- Added a Building Assembly section
- Added Appendix D (maps and pictures of sound walks)
- Added Appendix E (worked performed by Mr. Gold and his classes)

Mr. Gold summarized the findings from the University of Florida graduates included in Appendix E.

Mr. Siebein continued the presentation by reviewing the health effects of noise and comments submitted by Committee members. He discussed the HUD requirement of maximum interior sound level. He reviewed exterior sound levels and summarized Committee comments about sound level meters, inclusion of both dBa and dBc sound levels, trial period, expanding transportation noise study requirements to other project types, acoustic guidelines for buildings, and measuring sound vertically.

Mr. Motwani noted he was just reappointed, so he has not had the opportunity to review the materials. He asked about expanding the transportation noise study requirements.

Ms. Siebein clarified that any new transportation projects are required to complete a noise study.

Chair Ellis stated that noise generated from the street seems to be the issue. She said the swing towards new construction restrictions is a bit more than they participated.

Mr. Motwani said it seems they are getting way outside the scope. He said they need a policy and plan for enforcement.

Mr. Stone agreed with Mr. Motwani and said the imposition should not be on the developer for noise that is being generated and transported from a neighboring property.

Chair Ellis also agreed.

Mr. Petrillo stated the report was received yesterday and he was unable to fully review prior to the meeting. He noted the goal was to create a clean, understandable, and enforceable noise ordinance.

Chair Ellis said they were tasked to address the current sound ordinance and make recommendations for amendments to meet the current need and make it uniform across the board.

Mr. Pilgram asked for examples of buildings that fall into the criteria of the acoustic guidelines.

Mr. Siebein said there are a lot of them and provided examples of a nearby marina building and a restaurant in Miami Beach. He said intelligent design can optimize different activities for compatibility.

Mr. Motwani said they should stick to the scope of the venues and reasonable levels of sound sources. He noted Tampa is the only city that is comparable to Fort Lauderdale within the report.

Vice-Chair Brown said they need to determine acceptable sound levels in which residential and commercial areas can co-exist.

Mr. Petrillo echoed Mr. Motwani's comments. He said they need to look at other cities with similar entertainment districts.

Mr. Stone said accessory outdoor spaces are turning into outdoor amplified nightclubs. He said they need to be regulated more regarding dBc and tie it to plainly audible. He referenced Miami Beach.

Mr. Petrillo said there is no outdoor nightclubs but there are nightclubs that push the envelope by opening their doors, etc. He agreed they need to correct the bad behavior but not hinder the people who are doing it right.

Mr. Stone said noise violations are part of nuisance law and they do have potential health effects.

Chair Ellis reiterated the Committee's charge. She said one of the priorities identified is dBc.

Mr. Motwani said plainly audible is logical but hard to implement with ambient noise.

Discussion ensued about noise levels, complaints, and enforcement.

Ms. Porshia Garcia, Deputy Director, said there was a large amount of noise complaints in 2020 when people were home due to Covid. She said the resources are now in place, the team responds, and reports are generated with actions taken. She noted there is a dBc in the ordinance as of today and it is measured in the Special Entertainment District. She confirmed it is 85 dBa or 95 dBc, Monday through Thursday, 12:00 P.M. to

12:00 A.M. and 70 dBA or 80 dBc, Monday through Thursday, 12:00 – 2:00 A.M. They are measured 5' from the business property line.

Vice-Chair Brown asked Mr. Siebein if 95 dBc was an acceptable level.

Mr. Siebein said they measured sounds 100-110 dBc coming from multiple venues. He said it was challenging to isolate sounds from one club when there was sound coming from a nearby club.

Mr. Stone asked if reducing the dBc to 65 would allow someone to get sleep. Mr. Siebein replied yes.

Discussion ensued about dBc and the report findings.

Ms. Katrina Jordan, Code Compliance Manager, said the biggest concern currently is vacation rentals in residential areas. She said they continue to monitor venues but have not found recent violations.

Discussion ensued about sound meters and equipment. Mr. Siebein clarified their equipment stores data in a hard drive and can be accessed for graphing. Ms. Garcia asked Mr. Siebein if their technology is able to pull out ambient sound. He said they cannot separate the ambient sound. Ms. Garcia confirmed they updated their meters with similar capabilities.

Discussion continued about dBc levels, measurement, and enforcement. Mr. Siebein noted other cities have utilized two enforcement officers, one at the venue and one at the residential property for measurements. Mr. Siebein spoke about having venues regulate themselves with an 10EZ device.

Mr. Petrillo said they know who the repeat violators are.

Ms. Garcia said they cannot isolate the noise with their equipment, but the inspector can describe the condition when taking the measurement.

Vice-Chair Brown asked Mr. Anthony Fajardo, Assistant City Manager, if the Committee can make a recommendation about penalties that can be included in an ordinance.

Ms. Garcia said Mr. Fajardo was muted but she stated the item can come before the City Commission with a recommendation from the Committee.

Mr. Petrillo asked if the recommended 10-EZ equipment would be a solution for dBc. Mr. Siebein said he believes it would.

A **motion** was made by Vice Chair Brown to recommend keeping the dBa and dBc as currently in the ordinance and repeat violators should use recommended equipment to comply. Motion died due to lack of second.

Vice Chair Brown commented that the goal is to try to change the business establishment's behavior if they exceed the noise limit.

Discussion ensued about the number of violations, entertainment district enforcement and penalties. Ms. Garcia noted the City Attorney has stated they cannot revoke business tax licenses.

Mr. Petrillo said the City needs to be the one who governs the Special Entertainment District. Discussion continued about property owners and penalties for tenants.

Vice-Chair Brown noted they only have seven weeks left before it goes before the City Commission on October 17, 2023. He recommended developing a draft motion today.

Mr. Motwani said he would prefer to have information from the City Attorney's Office on enforcement and penalty options before he supports a recommendation.

Vice-Chair Brown summarized that the Committee would make recommendations about current levels, metering type, and behavior changes for repeat violators.

Mr. McCoury said measured dBa and dBc values may change based on measurement distance and received versus the source. He noted he was not ready to lock in a recommended number yet. Discussion ensued about sound level and measurement distance.

Ms. Garcia clarified the questions for the City Attorney's Office about 10-EZ equipment, violators, and penalties.

Good of the Order

No additional comments.

Public Comments

No public comments.

Next Scheduled Meeting Date

The next meeting will be held on Wednesday, September 26, 2023, at 1:00 P.M.

Adjournment

The meeting was adjourned at 2:54 P.M.

Noise Control Advisory Committee
August 23, 2023
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[Minutes prepared by TBaclawski, Prototype-Inc.]



CITY OF FORT LAUDERDALE

**2nd DRAFT MEETING MINUTES
CITY OF FORT LAUDERDALE
NOISE CONTROL ADVISORY COMMITTEE (NCAC)
FORT LAUDERDALE FIRE RESCUE DEPARTMENT – FIRE STATION #2
3RD FLOOR CONFERENCE ROOM
TUESDAY, SEPTEMBER 26, 2023 – 1:00 P.M.**

July 2023 – June 2024

Attendance

Eugenia “Genia” Ellis, Chair	P	3	0
William Brown, Vice-Chair	P	3	0
Ralph Stone	A	2	1
Rocco Ferrara	P	3	0
Steven Hudson [arrived 1:04 P.M.]	P	1	2
Chad McCoury	P	3	0
Miguel Pilgram	A	2	1
Tim Petrillo	P	2	1
Renee Quinn	P	1	2
Dev Motwani	P	2	0

Call to Order & Determination of Quorum

Chair Ellis called the meeting to order at 1:03 P.M.

Roll was called and a quorum was present.

Staff

Anthony Fajardo, Assistant City Manager, Committee Liaison
Porshia Garcia, Deputy Director, Development Services Department
Stephanie Bass, Code Compliance Supervisor
Katrina Jordan, Code Compliance Manager
D’Wayne Spence, Interim City Attorney (virtually)
Captain Tim McCarthy, Fort Lauderdale Police Department
Donna Varisco, Executive Assistant to the City Manager

Others

Gary Siebein, Siebein and Associates
Keely Siebein, Siebein and Associates
Carla Blair, Recording Secretary, Prototype-Inc.

Approval of the August 23, 2023, Meeting Minutes

Chair Ellis clarified one of her statements on Page 2.

A **motion** was made by Mr. McCoury, seconded by Mr. Brown, to approve the August 23, 2023, meeting minutes, as amended. In a roll call vote, the **motion passed** unanimously (8-0).

New Business

- **Staff Report - FY23 Commercial Noise Complaints**

Ms. Porshia Garcia, Deputy Director, referenced the summary of FY23 Commercial Noise Complaints.

Ms. Katrina Jordan, Code Compliance Manager, noted there were 38 violations out of the 232 noise complaints filed. She clarified that it is a combination of residential and commercial noise complaints.

Mr. McCoury asked about the difference between completed and complied cases. Ms. Jordan said the complied cases took corrective action to address the violations. She noted the completed cases are those that are closed and not currently open.

Vice-Chair Brown asked if both commercial and residential could equate to vacation rentals. Ms. Jordan replied that residential is a vacation rental, so it is included in the report.

Vice-Chair Brown inquired about the enforcement and compliance with the new vacation rental ordinance. Ms. Jordan said they have started outreach to all vacation rental operators, informing them of the required noise meters. She said the operators have a grace period so they can finish their renewal season. To date, there has only been one complaint about the requirement.

Mr. Hudson noted there were a lot of complaints in March. The Committee discussed the connection to Spring Break vacation rentals.

- **Review of Draft Report with Siebein Acoustic**

Mr. Siebein greeted the Committee and asked if they wanted to review the recommendations first or discuss the legality of the proposed technology.

Chair Ellis noted they will defer to Interim t City Attorney Spence.

Interim City Attorney Spence stated that he was not immediately aware of the exact technology and how it is proposed to be used. He noted the constitutional issues and concerns when utilizing a monitoring device. He said they would need more detail on the technology and intent before weighing in further on the constitutionality.

Mr. Siebein stated that the collected sound level limits on the weekend are significantly exceeding the intended levels in the Special Entertainment Districts. He noted that there are residential areas that are closer than the 600 feet originally established and are being impacted. He added that it is a challenge to take a sound level reading that is not impacted by other nearby venues in the Special Entertainment Districts. He stated that

enforcement continues to be an issue. He further described the technology that venues could use to self-regulate. He noted the Committee also discussed phasing in the technology.

Interim City Attorney Spence noted the City has a broader discretion to address venues within the Special Entertainment Districts. He expressed concern about the suggestion that the technology will be utilized as a penalty for repeat noise violators.

Mr. Siebein clarified that is not their original intent, rather, to utilize the technology proactively to help manage the sound levels in the Special Entertainment Districts so they are complying with the existing ordinance. Interim City Attorney Spence said he has no issue with it as a tool for compliance in the Special Entertainment Districts.

Mr. Siebein asked about utilizing the technology for clubs or restaurants that have outdoor amplified music. Interim City Attorney Spence said that may be an issue based on constitutionality. He reiterated needing additional details. Mr. Siebein stated that other cities have required venues with amplified sound to submit sound management or noise impact plans.

Chair Ellis noted the time restriction amplified sound in the Special Entertainment Districts.

Interim City Attorney Spence asked about the other referenced municipalities. Mr. Siebein said he will provide the names of those municipalities and a narrative of the proposed technology.

Discussion ensued about the proposed technology, intent, and constitutionality.

Interim City Attorney Spence noted there was a previous question about revoking business tax receipts. He said they are not revokable since the City is not issuing an actual license.

Mr. McCoury asked whether all backup items were reviewed and whether he had any additional concerns. Interim City Attorney Spence said he does not recall reviewing the action report.

Mr. Siebein introduced the draft Executive Summary and reviewed the Noise Ordinance Potential Action Items.

Mr. Petrillo asked about the subjectivity of plainly audible. Mr. Siebein noted the current ordinance contains plainly audible, but they are suggesting it could have several other applications.

Mr. Petrillo said that every potential noise violation will trigger plainly audible, and he does not believe that helps the enforcement of repeat offenders.

Mr. Siebein continued the review of action items.

Interim City Attorney Spence asked about the sound limitations at the source for establishments that are outside the Special Entertainment Districts. He asked about the intended regulation.

Mr. Siebein spoke about the Night Cap group for establishments that are interested in self-regulation. He noted, from an acoustic point of view, there are multiple establishments within a few blocks from each other within the City.

Interim City Attorney Spence expressed concern about targeting some businesses and whether it is a content neutral regulation. He noted he had no additional concerns on the potential action items.

Interim City Attorney Spence departed the meeting.

Mr. Petrillo asked about measuring sound levels from inside the source. Mr. Siebein said it would have to be a different level, but noted they did not assign specific numbers so there was an opportunity for discussion.

Vice-Chair Brown asked if the Committee agrees that Code Enforcement should have some additional tools.

Mr. Petrillo asked to hear from Code Enforcement.

Ms. Garcia agreed this is a step in the right direction, and she appreciates the report. She said it will be helpful to work with the City Attorney's Office to refine and clarify the ordinance.

Mr. Motwani said the consultants did a good job listening to concerns. He does not agree with the plainly audible standard recommendation and believes it creates too much subjectivity, which will be harder to enforce.

Discussion ensued about plainly audible.

A **motion** was made by Mr. Brown to strike plainly audible from the report. There was no second.

Ms. Garcia said that plainly audible is enforceable at the Special Magistrate for vacation rentals. She confirmed rulings have been upheld.

The Committee discussed striking Action Items #3 and #7 (modified document).

Chair Ellis asked the Committee to discuss the recommendation for the noise study requirement for future development. Mr. Hudson said that should be more than a two-sentence paragraph. Assistant City Manager Fajardo said it does exist in the current ordinance, but it is rarely implemented.

Mr. Siebein noted that 75% of their work is within mixed-use buildings in large cities. He spoke about the impact of Special Entertainment District venues and residential areas. He recommended advanced planning for buildings before they are constructed.

Discussion ensued about noise, new development, and the permitting process.

A **motion** was made by Mr. Brown, seconded by Mr. Hudson, to strike Items 3 & 7 from the latest version and change language to suggest that staff further review Items 13 & 14, at the permitting process. In a roll call vote, the **motion passed** unanimously (8-0).

Mr. McCoury asked about the non-residential language in point #4 on Page 71 regarding the City of Hollywood.

Ms. Keely Siebein, consultant, said she will look into it further for clarity.

Assistant City Manager Fajardo read the ordinance language from the City of Hollywood's website. Mr. McCoury recommended noting that language for the City Attorney.

Chair Ellis stated the findings will be presented on at the October 17 Conference Meeting. Ms. Garcia said they need the final report by October 6 and a copy will be shared with the Committee.

Ms. Siebein spoke about the Executive Summary and Appendix H and confirmed the changes discussed today will be incorporated.

Assistant City Manager Fajardo outlined the potential next steps, that will be directed by the City Commission.

Good of the Order

No additional comments.

Public Comments

No public comments.

Next Scheduled Meeting Date

The next meeting will be held on Tuesday, October 24, 2023, at 1:00 P.M.

Adjournment

The meeting was adjourned at 2:45 P.M.

[Minutes prepared by TBaclawski, Prototype-Inc.]