



CITY OF FORT LAUDERDALE

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.]