

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
SPECIAL MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Thursday, May 16, 2019
5:30 PM**

1. CALL TO ORDER

Mayor Chris Vincent called the meeting to order at 5:30 p.m. Also present were Vice Mayor Elliot Sokolow, Commissioner Edmund Malkoon, Commissioner Alfred "Buz" Oldaker, Commissioner Randy Strauss, Town Manager Bill Vance, Deputy Town Manager Tony Bryan, Development Services Director Linda Connors, Town Attorney Susan L. Trevarthen, Municipal Services Director Ken Rubach, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Allen.

2. PUBLIC COMMENT

At this time Mayor Vincent opened public comment.

Jim Rogers, resident, addressed the problem of noise levels in the Silver Shores area and played a recording of noise from the Downtown area as heard at his home. He did not feel citations were a deterrent to the businesses responsible for the noise. He recommended that permitted entertainment be limited to one night per week, with permits issued once per event, and require monitoring of noise levels.

John Frasene, resident, recalled that some years ago the *Sun-Sentinel* reported that Lauderdale-By-The-Sea permits some of the highest decibel levels in Broward County at 85 dBA between 7 and 10 p.m. in the commercial district and 75 dBA between 10 p.m. and 7 a.m. He expressed concern that Lauderdale-By-The-Sea could be perceived as a "party town."

As there were no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

3. DISCUSSION ITEM

3.a Downtown Discussion – Music

Development Services Director Linda Connors explained that the Commission had requested a workshop addressing the issues of music levels, signage, and sidewalk cafés in the Downtown area. The workshop was slightly delayed until Town Manager Bill Vance was able to assume all duties.

In 2009, the Town amended its Noise Ordinance, which did not refer to specific decibel levels at that time. These levels were necessary so the Ordinance could be easily implemented. The Town adopted decibel levels of 90 dBA/95 dBc. In 2014, the Commission voted to decrease allowable noise levels to 85 dBA/dBc from 7 a.m. to 10 p.m. After 10 p.m., these levels are reduced to 75 dBA/dBc.

There are two methods of noise measurement: in the absence of a special event, noise readings are taken by trained Code Officers or Broward Sheriff's Office (BSO) Staff. These readings are taken at the property line. If there is a special event, noise readings are taken 100 ft. away from the source of music.

In response to complaints in February and March 2019, Staff took several noise readings for both indoor and outdoor music. Most events at which these readings were taken violated the Noise Ordinance by reaching a level of 86 dBA or higher. Development Services Director Connors also advised that the number of Downtown events should be considered, as these have increased over the years: in 2010, there were 68 events Downtown, while by 2014 this had increased to 102 events. Thus far in 2019, 88 events have been approved or are pending.

Town Manager Vance has offered the following suggestions to amend the Noise Ordinance:

- Cease issuing special event permits for weekly single establishments, and issue special event permits only as part of a cooperative effort involving more than one establishment and use of Town right-of-way
- Establish a Conditional Use permit for musical entertainment to be located inside the business, to be issued to the property owner and include location of music inside the building, dates and times music will be played, specific information regarding allowable sound levels, and contact information and response requirements
- Totally prohibit amplified music outside soundproofed rooms except as part of a Town-approved special event

Town Manager Vance explained that noise related to musical entertainment in the Downtown area was one of the first concerns brought to his attention when he assumed the duties of Town Manager. He reached out to property and business owners in the Downtown area and felt that some collectively negotiated informal agreements may lead to improved conditions.

At present, Code provides little structure, as there is no further limitation than 75 dBA until 7 a.m. Town Manager Vance proposed that some of the informal agreements with businesses be formalized as Conditional Use permits to document a formal understanding of when music may be played and the noise levels it may reach. He expressed confidence that the businesses will continue to earn the privilege of holding musical events in the Downtown area in the future once agreements are in place.

Mayor Vincent recalled that when Friday night musical events began, they were well-received overall, with few complaints regarding noise. Over the last 10 years, as the Town made capital improvements and reinvented itself, a new environment has been created on Commercial Boulevard which is similar to an entertainment district. He pointed out that due to the Town's size, they do not wish to create an entertainment area because of the proximity of residential and commercial neighborhoods. He emphasized the need to work together to reach a mutually beneficial solution.

Development Services Director Connors noted that in addition to the Noise Ordinance, which is in Chapter 13 of Town Code, there are additional regulations in Chapter 3, Alcoholic Beverages. These regulations require that music must be played within an enclosed area after 12 a.m., and businesses must close at 2 a.m. The requirement for music to be played within closed doors after midnight has not been enforced.

Mayor Vincent observed that alternatives might be to bring speakers indoors or face them inward, which could lower the volume significantly. He noted that some businesses provide music multiple nights of the week, as they are on private property. These businesses must still adhere to the decibel restrictions and the closing of doors after midnight.

The Commissioners discussed the issue further, with Commissioner Oldaker noting that any music coming from an electronic device is considered amplified. This would include speaker systems on sidewalks outside some establishments. Development Services Director Connors clarified that under the proposed changes, sound systems would need to be indoors, with music pointing toward the business, rather than outside and toward the street.

Vincent Foti, business owner, asked if this meant no amplified music could be played in businesses after midnight. Mayor Vincent replied that businesses may close their doors after midnight to lessen the sound outside the establishment. He reiterated that this is required by current Code.

Mr. Foti stated that decibel readings have been very high in the absence of amplified music, depending upon crowd activity and size. He characterized the decibel limit as unattainable. Mayor Vincent pointed out that part of the issue may be multiple businesses providing music at the same time, which was not a problem when the Noise Ordinance was enacted. He also observed that while crowd noise and voices may not carry into residential neighborhoods, music does carry.

Vice Mayor Sokolow cautioned that decibel levels may be dependent upon regular calibration of decibel meters and other mitigating factors. He added that it may be difficult to strike a balance between maintaining a vibrant nightlife within the Downtown area and affecting property values in residential areas if noise remains an issue.

Commissioner Malkoon asked how the Noise Ordinance is currently enforced. Town Manager Vance replied that no decibel meters have been used in the past five to six weeks while he reached out to the owners of various establishments. He has contact information from business owners so he can communicate with them in the event of an issue. He reiterated that he is in favor of a written agreement clearly establishing how the Ordinance will be enforced in the future.

Commissioner Strauss proposed that noise might be mitigated through the use of acoustic tiling that can reduce the projection of sound outside an establishment.

Bill Ciani, resident, stated that as a building owner, he would not be willing to sign any agreements that stated his tenants' music must remain within the permitted decibel level. He expected the Town to deal with this issue through Code Enforcement. He also asserted that residents have seen an increase in their property values due in part to the Town's success in attracting businesses and visitors for a vibrant nightlife.

Town Manager Vance noted that it should be possible to arrive at agreements regarding the days and times when entertainment is provided. He recalled that when he first arrived in Lauderdale-By-The-Sea, he excused business owners from appearances before the Special Magistrate related to Noise Ordinance violations, as he knew this issue would be discussed in depth by the Commission.

Vice Mayor Sokolow recommended that any agreements be mindful of the fact that a landlord is not responsible for a tenant's actions. He also agreed with Town Manager Vance that it is easier to work one-on-one with business owners to address the problem than contribute to any animosity between businesses, the Town, and residents.

Commissioner Oldaker commented that the current Fort Lauderdale Entertainment District was once considered a blighted area; however, this is no longer the case, and as more residential development moves into the area, that city may be receiving some complaints from residents regarding the permitted decibel level.

Mayor Vincent addressed Town Manager Vance's Conditional Use proposal, asking how compliance might be enforced. Town Manager Vance replied that the Commission would have the ultimate flexibility to work with property or business owners: if negotiations did not lead to a positive outcome, the Town Manager could recommend that the business's permit be discontinued. While the recent informal understanding between the Town and business owners has improved the situation, greater structure to these agreements could contribute to a better solution. No Special Magistrate involvement was proposed at this time.

Mr. Foti reiterated his concern that the decibel limit of 85 dBA may be unattainable at some times of the year, and asked how this issue might be addressed going forward. Mayor Vincent replied that Town Manager Vance's proposed solution of better communication is the first step in the process; however, he emphasized that help is

needed from the business owners as well, including the possibility of lower volume, change of speaker direction, and other potential solutions.

Mr. Foti felt that requiring businesses to secure permits and enter into agreements for live music events would result in those businesses seeking to relocate. He declared that asking establishments to close their doors after midnight would significantly diminish business. Mayor Vincent pointed out that this has not yet been asked of any business, nor has it been previously enforced although it is part of Code.

Town Manager Vance continued that the agreement would allow an owner to show performers what s/he has agreed to so they are aware of what has been negotiated. He emphasized that his primary intent was for clarity.

Town Attorney Susan Trevarthen asked if there was sufficient Commission consensus for Staff to begin work on appropriate language and documentation. Town Manager Vance requested that an update be provided at a Commission meeting in approximately one month, after which time a recommendation could be brought forward.

3.b Downtown Discussion – Signage

Development Services Director Connors recalled that Vice Mayor Sokolow had requested recommendations on specific changes to the Town's Sign Code.

The first issue was the prohibition of "sandwich signs," which are portable, foldable, and freestanding A-frame boards that are not secured or attached to the ground. Staff has reviewed current requirements and recommends that these signs continue to be prohibited in the East Commercial Boulevard area due to traffic and sidewalk activity. If Code is changed, however, Staff recommends the following:

- Sandwich signs are to be limited to one per business
- Signs must be adjacent to the building
- Placement of signs ensures a 5 ft. minimum pedestrian path
- Signs are of a design consistent with Lauderdale-By-The-Sea branding

Mayor Vincent recalled that previous discussion of this issue had considered designating an area for sandwich signs or menu boards. He proposed that the Commission discuss this further to ensure there is no room for error.

Vice Mayor Sokolow stated that he did not agree with the proposal for sandwich signs to be consistent with the Town's branding, as the purpose is for businesses to brand themselves rather than the Town. He also requested clarification of why the proposed change would not apply to other businesses in the area. Development Services Director Connors replied that this recommendation could be changed if it was the Commission's desire.

Development Services Director Connors noted that Staff had considered regulations in the Downtown areas of West Palm Beach, Delray Beach, Fort Lauderdale, and other nearby communities. One issue that led to the branding proposal was the wide variety of sandwich board styles. Staff felt strongly that there should be some standard of style, such as a typical size or material.

Vice Mayor Sokolow advised that he felt the only areas where prohibition of sandwich signs remains necessary would be west of Commercial Boulevard and El Mar Drive north of Commercial Boulevard, where pedestrian traffic is heavy at night. He felt a uniform sign size was not unreasonable.

Development Services Director clarified that these signs would be exempt from permitting, as they are relatively inexpensive and the Town did not wish to require additional permits. She added that menu board signs would also be exempt from permitting in the future.

Development Services Director Connors continued that the Vice Mayor had also requested Staff look into the standard for maximum letter size. This was discussed extensively when the Sign Code was reviewed in 2014. It was determined that letter size and legibility are contingent upon a number of factors, including font, color, traffic speed, and the lane in which a car is traveling.

Because the area east of Ocean Drive is more pedestrian in nature, there was no reason not to allow signs with large lettering. Height range is between 12 and 15 in., subject to change if the sign is in all capital letters, which are considered more difficult to read. In 2014, the Commission voted to limit letter size on signage east of A1A to 12 in., while west of A1A and on Ocean Drive allows a maximum letter size of 18 in.

Vice Mayor Sokolow requested clarification of why larger letters are allowed if they follow Midcentury Modern design. Development Services Director Connors explained that a defining element of this architectural and sign style features a large first letter. Mayor Vincent noted that Midcentury Modern is recorded as the Town's preferred architectural style. Vice Mayor Sokolow stated that he did not feel it was reasonable to penalize individuals or businesses who chose not to follow this style.

Mr. Ciani stated that the standard 12 in. letter size permitted east of A1A is too small, and felt 18 in. was a more appropriate size. He also noted that some corner buildings require two different lettering sizes depending upon their location. Mayor Vincent suggested that corner buildings could permit larger letters on both sides due to the proximity of the main road. The Commissioners agreed by consensus to have Staff look further into this issue and bring back a proposed policy change for greater flexibility on corner buildings.

Commissioner Oldaker asked what a business would have to do to request consistently sized signs on two sides of a corner building. Development Services Director Connors

replied that this would either require a Code change or the smaller sign would need to change to Midcentury Modern. Some signs may not be changed because of the restrictions of nonconforming structures.

Town Manager Vance advised that Staff plans to initiate development team meetings where topics such as this can be discussed at length, including goals for individual business and/or property owners. He and Development Services Director Connors can review Code with these owners to identify the potential for greater flexibility.

Development Services Director Connors continued that another issue was the limitation of signs to three colors. This Code provision dates back to 2001 and is intended to ensure some level of relationship between multiple signs on a single building. Greater flexibility is allowed if a business has a registered trademark.

Vice Mayor Sokolow reiterated that he was not in favor of this type of uniformity and would prefer to see greater individuality expressed through signage. He considered the flexibility afforded trademarks to be an inconsistency. Town Attorney Trevarthen advised that this is also in respect for federal trademark law.

Mayor Vincent agreed that the Town's unique character should allow for more than one color on a building. He felt the current system is reasonable for most businesses. It was determined that there was no new direction to be explored with regard to color regulations.

The current industry standard for sign area, with and without a background, is measured by width and height. In the case of signs with a larger first letter, the measurement is based on the height of the largest letter.

Vice Mayor Sokolow noted that most systems used to design signs can instantaneously calculate the area of letters, logos, and other features. He did not believe Midcentury Modern signs should be allowed a greater area. If differently sized sections of a sign, such as lettering and logos, are calculated differently, the resulting total could be significantly smaller.

Anthony Delia, representing 101 Ocean, commented that the restaurant was only allotted one sign despite multiple storefronts, and asked if it would be possible to add another sign on either the Commercial Boulevard or the El Mar Drive side. Town Manager Vance suggested that Mr. Delia meet with the Staff management team to determine if there were ways to increase the business's flexibility.

Development Services Director Connors noted that 32 sq. ft. is an industry standard for signage, which means sign companies are often familiar with providing signs of these dimensions. Most sign square footage requested is less than 32 sq. ft., as the Town's store frontages are relatively small. Code also allows for buildings set back a certain

distance from the street or above a certain height to increase the size of the sign's letters. Very few signs exceed the 32 ft. limitation, no matter how they are measured, unless the signs are grandfathered under Code or use Midcentury Modern design.

Mr. Foti asked if there is a limit to the number of signs allowed on a building. Development Services Director Connors explained that in the B-1 district, a business may have one permanent sign per building street frontage, with an additional permanent awning, directory, or hanging sign allowed, up to a total of 32 sq. ft. If a building houses multiple businesses, they may have as many signs as businesses. Window or decal signs are not considered permanent signage and may cover up to 25% of a window.

3.c Downtown Discussion – Sidewalk Café

Development Services Director Connors advised that Staff is currently reviewing the Town's Sidewalk Café Ordinance, as some of its provisions are outdated. Staff looked at the regulations of other nearby cities and would like direction from the Commission on potential changes to the Ordinance, including whether or not outdoor bars should be addressed and whether wait staff stations may be located outside.

With regard to outdoor bars, Development Services Director Connors explained that some businesses have added these features to their outdoor dining areas. Code does not specifically prohibit outdoor bars. In addition, when the Ordinance was first written in 1993, permanent barriers were required for sidewalk café areas; however, this language was later deleted to promote a more inviting area. Some businesses have since asked if they could erect barriers.

Mayor Vincent proposed considering the barrier issue on a case-by-case basis. Development Services Director Connors advised that the barriers, which could include features such as planters, could block a portion of public sidewalk. There was Commission consensus that barriers not be allowed in the public right-of-way.

Another issue is storage of sidewalk cafés. Staff suggests allowing on-street storage at night, but ensuring that the tables are open and unchained by a set time in the next morning.

Development Services Director Connors concluded that some businesses would like to provide sidewalk cafés, but only for a limited time, without the full year-round charge. At present, businesses must pay for the full year for a sidewalk café. She recommended that if this provision is added to Code, the business owner should specify how long s/he would like to have the sidewalk café at the beginning of the fiscal year in October. They can be charged on a quarterly basis. The Commission agreed by consensus against this provision.

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It was pointed out that some businesses with sidewalk cafés are less thorough than others in keeping those areas clean, and that the Town should ensure that each business takes care of this necessity. Town Manager Vance agreed that Staff would follow up on this issue.

4. ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 7:33 p.m.



Mayor Chris Vincent

ATTEST:



Town Clerk Tedra Allen



Date