CITY OF FORT LAUDERDALE

MEETING MINUTES
CITY OF FORT LAUDERDALE
NOISE CONTROL ADVISORY COMMITTEE (NCAC)
TUESDAY, JANUARY 25, 2022 – 1:00 P.M.

July 2021 – June 2022		**Attendance**	
Eugenia "Genia" Ellis, Chair	P	1	0
Jacqueline Scott, Vice-Chair	P	1	0
Ralph Stone	P	1	0
Rocco Ferrara [arrived 1:06]	P	1	0
Steven Hudson	A	0	1
Chad McCoury	P	1	0
Dev Motwani	P	1	0
Miquel Pilgram	P	1	0
Tim Petrillo	P	1	0
Renee Quinn	P	1	0

Call to Order & Determination of Quorum

Chair Ellis called the meeting to order at 1:05 P.M.

Roll was called and a quorum was present.

Staff

Greg Chavarria, Assistant City Manager and Liaison
Porshia Williams, Assistant Director, Development Services Department
Alain E. Boileau, City Attorney
Stephanie Bass, Code Compliance Supervisor
Sarah Spurlock, Nighttime Economy Manager
Donna Varisco, Executive Assistant to the City Manager
Amber Cabrera, Senior Management Fellow
Carla Blair, Recording Secretary, Prototype, Inc.

Communication to the City Commission

Motion was made by Mr. Stone, seconded by Mr. Pilgram, recommending that the City of Fort Lauderdale hire a noise consultant to assist the City in updating and qualifying any proposed changes or amendments to the City's existing Noise Ordinance, paying special attention to advising on various possible methodologies, while also providing a holistic approach. The advisory committee advised that the noise consultant hired have expertise in modern, large city, downtown, and beach environments, that consist of a mix of residential, business/commercial, and special entertainment districts that have experienced a robust growth of the business sector and residential sector. The consultant's report should include a recommendation of appropriate dBC levels, for each area in question, rather than a primary focus on dBA levels. In a voice vote, the **motion** passed unanimously (9-0).

CITY OF FORT LAUDERDALE

DRAFT
MEETING MINUTES
CITY OF FORT LAUDERDALE
NOISE CONTROL ADVISORY COMMITTEE (NCAC)
TUESDAY, JANUARY 25, 2022 – 1:00 P.M.

July 2021 – June 2022		**Attendance**	
Eugenia "Genia" Ellis, Chair	P	1	0
Jacqueline Scott, Vice-Chair	P	1	0
Ralph Stone	P	1	0
Rocco Ferrara [arrived 1:06]	P	1	0
Steven Hudson	A	0	1
Chad McCoury	P	1	0
Dev Motwani	P	1	0
Miquel Pilgram	P	1	0
Tim Petrillo	P	1	0
Renee Quinn	P	1	0

Call to Order & Determination of Quorum

Chair Ellis called the meeting to order at 1:05 P.M.

Roll was called and a quorum was present.

Staff

Greg Chavarria, Assistant City Manager and Liaison
Porshia Williams, Assistant Director, Development Services Department
Alain E. Boileau, City Attorney
Stephanie Bass, Code Compliance Supervisor
Sarah Spurlock, Nighttime Economy Manager
Donna Varisco, Executive Assistant to the City Manager
Amber Cabrera, Senior Management Fellow
Carla Blair, Recording Secretary, Prototype, Inc.

Communication to the City Commission

Motion was made by Mr. Stone, seconded by Mr. Pilgram, recommending that the City of Fort Lauderdale hire a noise consultant to assist the City in updating and qualifying any proposed changes or amendments to the City's existing Noise Ordinance, paying special attention to advising on various possible methodologies, while also providing a holistic approach. The advisory committee advised that the noise consultant hired have expertise in modern, large city, downtown, and beach environments, that consist of a mix of residential, business/commercial, and special entertainment districts that have experienced a robust growth of the business sector and residential sector. The consultant's report should include a recommendation of appropriate dBC levels, for each area in question, rather than a primary focus on dBA levels. In a voice vote, the **motion** passed unanimously (9-0).

Approval of the November 30, 2021, Meeting Minutes

A **motion** was made by Mr. Petrillo, seconded by Mr. McCoury, to approve the November 30, 2021, meeting minutes. In a voice vote, the **motion passed** unanimously (9-0).

New Business

Presentation/Discussion

- Chapter 17 - Noise Control & Code Compliance
- Chapter 11 - Code Enforcement

Porshia Williams, Assistant Director, Development Services Department, introduced herself and her colleague, Stephanie Bass, Code Compliance Supervisor. She began the presentation reviewing the resource devices used to measure noise. The first is a handheld sound measurement device purchased from Amazon. She noted it is not calibrated but it is a resource they can equip all Code Officers with. The second item is a professional sound meter which is calibrated and used for formal enforcement. She stated they recently procured a stationary sound measurement device from NTI Solutions. It has not been deployed in the field yet, but they did conduct 60 days of testing on the device last year. The device will allow the stationary meter to be placed in a set location, establish decimal levels for area, record sound, and send an alert if necessary. It would be placed in a public right-of-way or at the business or residence with permission from the owner. The device has been used frequently in the Fort Lauderdale downtown area. It was used to see if it would improve the response to noise complaints, staff training and certification in noise. Ms. Williams said all Code Officers are certified in noise. She then asked the Committee if they had any questions.

Ms. Scott asked if the handheld device is something she could use and what is its purpose.

Ms. Williams responded that if a private citizen uses it, it cannot be used as primary evidence. However, if a Code Officer observed it, then it can be used in support of additional evidence.

Ms. Scott noted that since they are not calibrated, it sounds like a joke. She inquired whether the City has a lot of non-calibrated devices.

Ms. Williams replied that those are standard issue, but they have handheld calibrated device.

Ms. Scott asked if they will be phasing out the non-calibrated devices.

Ms. Williams noted they will not phase them out since they can still be used to do readings. She confirmed they can then move to calibrated devices to issue violations.

Mr. McCoury suggested the handheld devices can help establish patterns.

Ms. Scott said it sounds like they respond to calls using a handheld device and if the noise is elevated, they need to dispatch another person to the scene.

Ms. Williams replied not necessarily. She noted most noise complaints are received on the weekends and the weekend Officers have calibrated handheld devices on them. She stated during the week, on routine calls, the Officers can use the non-calibrated devices to issue a courtesy first to the person in violation.

Ms. Williams reviewed how they measure sound. She noted they receive a majority of their complaints after 10 P.M.

Mr. Petrillo asked how they access decibels when there are areas that are both commercial and residential.

Ms. Williams stated there is language in Chapter 17 that addresses how to apply the limits in mixed-use areas. She said the Code specifies residential use, commercial use, industrial use, and special entertainment district. She confirmed most of the time they are applying residential use or commercial use.

Mr. Petrillo asked Ms. Williams to clarify property line. He asked if it is the property line of where the noise emanates from or the property where the person is being disturbed by the noise.

Ms. Williams responded it is the property line of the complainant. She said state laws require the City to have a complainant with first name, last name, and property address for the complainant. She gave an example of a Special Magistrate case with no complainant address. She noted within the last year, the City has become more responsive to noise complaints.

Mr. Motwani asked if that requirement is the same for the special entertainment district.

Ms. Williams responded no. In the special entertainment district, it is five (5) feet from the property line.

Mr. Motwani asked which property line.

Ms. Williams replied from the business. She confirmed as of the law change on July 1, 2021, they still require a first name, last name, and address of the complainant for their records.

Mr. Motwani asked why there is a different test for the special entertainment district.

Ms. Williams confirmed that area is designed by code to have a higher sound level.

Mr. Motwani said five (5) feet from the property line seems arbitrary. In the special entertainment district, it seems contradictory to measure it geographically.

Mr. Boileau stated that one of the issues is that the City relied heavily on a noise consultant report from 2006. He acknowledged that times have changed and part of the task of the committee is to re-address all these issues. He noted it is poorly written in some places and there is ambiguity.

Mr. Petrillo asked if the Committee would have input on areas where the code might be flawed.

Mr. Boileau replied yes, and it is the reason the Committee is comprised on individuals with different perspectives.

Ms. Scott asked if it is common to get a complaint and to measure five (5) feet away from the property line.
Ms. Williams confirmed they do but often it is just high decibels, but not a violation.

Ms. Scott asked why decibels are so high.

Ms. Williams said the code allows 85 decibels in the special entertainment district. She clarified in a commercial property the maximum permissible decibel is 65 but in the special entertainment area it is 85 decibels.

Mr. Boileau said they receive a lot of complaints because, to someone walking down the street, it seems loud, but the decibel level is still allowable within the code and is compliant.

Mr. Stone stated that within the last 10-15 years the allowable dBA (high frequency decibels) is up to just below a level where you can have serious health issues. He said what is harming people is the low frequency bass (dBC). He said he can hear the bass from the area clubs all night long. He mentioned the three standards that define noise in residential areas and, violation of decibel level is just one of them. He believes the C level frequency is the problem.

Ms. Williams continued with the presentation. She reviewed amplified sound and noted they rarely receive complaints in industrial areas. A majority of complaints are residential and commercial use. She noted that in the special entertainment district they measure dBA and dBC.

Mr. McCoury asked about personnel allowed to enforce.

Ms. Williams confirmed if it is weekend or after hours, it will be tracked with data she provides to the Board. She said if it is a common complaint, they may begin monitoring that establishment proactively.

Mr. McCoury asked about Q-Alert.

Ms. Williams clarified it is a system of record they use to follow up with reported complaints that come in through the City's customer service number.

Ms. Williams reviewed other factors that influence noise.

Ms. Williams reviewed Chapter 11 Code Enforcement Process. She stated she has staff that work nights and weekends, and a special team works with the City Police during Spring Break. She noted there is a warning for a business or residential property that has not received a violation in the past.

Ms. Scott asked about the purpose of giving a one (1) hour timeframe to continue making noise.

Ms. Williams responded that they have to provide due process.

Mr. McCoury asked about the types of noise tracked and if it included cars.

Ms. Williams stated the Police Department is involved with vehicular noise. The Code Officer will not pull a car over. Other noise includes barking dogs, house parties, development, construction, and trash service.

Discussion ensued about other types of noise, the civil citation process, the Special Magistrate, and fees.

Ms. Scott suggested the Committee could make some recommended adjustments to fees.

Mr. Boileau added that maximum fees are regulated by State law.

Ms. Williams noted the citations accrue daily. They recently created a citation form that is specific to noise. She further explained the daily accrual for citations.

Mr. Pilgram asked about a jazz concert downtown and the accrual for a repeat offender.

Ms. Williams clarified the code defines repeat offenders as the same owner and the same violation.

Mr. Boileau said if it is a special event, you will not have repeat offenders because the City would not approve the event again.

Mr. Motwani asked if the City is educating complainants.

Ms. Williams responded that if they have the complainant's information, they reach out for a dialogue to explain the situation and the code. She said the target from complaint to response is 24 hours. She said most complaints are between 10:00 P.M. to 2:00 A.M. and after 2:00 A.M. the Police respond.

Ms. Scott noted the issues on Las Olas Boulevard East where residential abuts the commercial area.

Ms. Williams said the Inspector visits the buildings during the day to ensure they have proper permits for outdoor music and speakers. Ms. Scott noted the 24-hour target to respond is not helpful.

Discussion ensued about logging complaint calls, number of calls received, and the tracking sheet data.

Ms. Scott wants to discuss recommending increasing staff for enforcement.

Mr. Motwani asked about ambient noise.

Ms. Williams responded that prior to the code change in 2018, there was language in the code to allow for 1-3 decibels for margin of error but now it is up to the discretion of the Code Officer.

Ms. Scott said she thinks the ordinance is good, but the issue is enforcement based on lack of staff. She asked Ms. Williams where she believes the code could be changed.

Ms. Williams responded one challenging area is how the Regional Activity Center (RAC) is defined, training and retraining staff with code changes, and different interpretations of the ordinance.

Mr. Boileau noted, from a legal perspective, the challenge is the downtown area.

Ms. Williams agreed, accounting for ambient sound is an issue.

Mr. Petrillo illustrated that, on Friday and Saturday nights, even with no businesses playing music, the ambient sound can spike over 50 decibels.

Mr. Boileau noted that would be a great reason for a noise consultant to look at it from a more scientific way. He said there is likely a better way to measure ambient noise than in 2006.

Mr. Pilgram asked about addressing future complaints of large residential development areas directly across from entertainment areas.

Ms. Spurlock responded that is what they are dealing with, currently, with Rooftop and said municipalities are looking at Agent of Change legislation. The responsibility would be

with the developer to mitigate for the sound for their development. The City does not currently have that legislation, but it is something Ms. Spurlock has been advocating for. She mentioned Seattle and San Francisco currently have this type of legislation. Ms. Spurlock clarified stating a new residential development going into an entertainment area would mitigate for the sound by installing better soundproofing in their own building. In the alternative, a new entertainment development going into a residential area would be responsible for mitigating the noise emanating from their establishment.

Ms. Scott asked Ms. Spurlock to send her an email with examples and she will bring up the topic at the City's next Planning and Zoning Board meeting.

Mr. Stone reiterated he believes the problem is the C frequency bass until 4:00 A.M. He said it is an issue in the building he personally resides in.

Ms. Williams said she contacted Miami Beach to discuss what they use. They are attempting to adopt using decibels.

Good of the Order

Mr. McCoury wanted to let the public know he hears them.

Public Comments

Chair Ellis opened the floor for public comments.

Ron Tenenhaus, resident of Bamboo Flats, complained about the noise coming from the Flagler Village area bars and the impact on his windows. He called Code Enforcement, and they came out, but they could not get a reading. He said it is affecting his quality of life. He said the regulations are not addressing the issue or benefitting the residents. He believes they either need a blanket ban on amplified sound after a certain hour or lower the decibel threshold. He noted Wilton Manors created a blanket ban city-wide after 11:00 P.M.

Enrique Bargioni, resident of Bamboo Flats, agreed that noise is a serious health issue and agrees with the recommendation to review the code.

Brent Pagnotta, resident of Bamboo Flats, asked for clarification on the decibels and the property lines.

Mr. Boileau clarified the difference between commercial and residential.

Michael Peeples is a resident of Bamboo Flats since 2007. He noted it is a different neighborhood with the entertainment district. He has called code compliance a lot and described the intense C level and bass. He said his windows shake and people urinate on the street.

Bill Brown, CBA President, encouraged the City Manager to hire consultants as soon as possible since the Committee will sunset in eighteen (18) months.

Chair Ellis closed the public comments and brought it back to the Committee to discuss goals and next steps. She thanked Ms. Williams for the data.

Ms. Scott asked if they could measure the bass.

Ms. Williams replied it is possible to measure bass with the handheld device by switching the wave rating from A to C frequency. She noted to be able to use the C level, it would have to be written in the code. Currently, the C limits are only for the special entertainment area.

Chair Ellis responded that may be one of the goals.

Mr. Petrillo would like to further understand why cases are being lost at the Magistrate level and what can be done to make sure we are in alignment with governing rules.

Discussion ensued about hiring a consultant.

Mr. Petrillo asked if there are other successful cities or best practices that can be looked at.

Mr. Boileau noted they have looked at other cities and acknowledged, each city is unique and hard to compare. He would share the 2006 consultant report with the Committee.

Mr. Stone recommended looking at cities that experience similar problems with new development and outdoor entertainment. He said there are likely experts in Tampa and Nashville.

Discussion ensued about the businesses on SW 2nd Street.

Mr. Chavarria said, process-wise, communication should be sent to the City Commission.

Mr. Boileau said they should vote on the communication, so it is from the Committee.

A **motion** was made by Ms. Scott, seconded by Mr. Pilgram to send communication to the City Commission to hire a consultant to assist with their process. In a voice vote, the **motion passed** unanimously (9-0).

Ms. Cabrera noted the City Commission will make the ultimate decision on the consultant, but the Committee will provide criteria.

Ms. Scott withdrew the motion.

Mr. Petrillo withdrew his second.

Mr. Stone recommended hiring a consultant with experience in large size cities with both beach and downtown environments that experienced robust growth of the business sector and residential sector. He does not believe it should be someone who has only done a noise ordinance. He suggested a consultant look at the code in its entirety.

Mr. Boileau reminded the Committee they won't be part of the consultant procurement process.

An **amended motion** was made by Mr. Stone, seconded by Mr. Pilgram recommending that the consultant hired have expertise in modern, large city, downtown, and beach environments, that consist of a mix of residential, business/commercial, and special entertainment districts. In a voice vote, the **motion** passed unanimously (9-0).

Discussion ensued about transmitting the recommendation to the City Commission, the procurement process, and scope of work.

Mr. Petrillo noted the Committee should take a holistic approach to the process.

Next Scheduled Meeting Date

The next meeting will be held on Tuesday, February 22, 2022, at 1:00 P.M.

Adjournment

A **motion** was made by Chair Ellis, seconded by Mr. Petrillo to adjourn the meeting. The meeting was adjourned at 2:45 P.M.

[Minutes prepared by TBaclawski, Prototype Inc.]