

FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING
MAY 6, 2008

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CITY COMMISSION CONFERENCE MEETING 1:30 P.M. MAY 6, 2008

Present: Mayor Naugle
 Commissioners Hutchinson and Moore, and Vice Mayor Rodstrom

Absent: Commissioner Teel

Also Present: City Manager – George Gretsas
 City Auditor - John Herbst
 City Clerk - Jonda K. Joseph
 City Attorney - Harry A. Stewart
 Sergeant At Arms – Sgt. Harvey Jacques

I-A – Interviews Board of Adjustment

Michael Madfis said he has been a city resident since 1986. He has served on other boards in the past, including the Community Appearance and Unsafe Structures boards. He also was a technical advisor to the Utility Study and served on the Transportation Management Association. He has had an architectural practice in Fort Lauderdale since 1990 and has been practicing architecture since 1977. He is familiar with the proceedings of the Board of Adjustment and has presented cases before this board. He is president of his civic association and has been active since 1988 and therefore understands neighborhood perspective. He understands that this board is not one to establish policy, but to preserve the code as best as possible.

Karl Shallenberger indicated as a City employee for 35 years and now retired, he had a lot of input in formulating regulations and dealing with the Unified Land Development Regulations and Master Plan. He has worked with all members of the Commission except the Vice Mayor. His expertise is in utilities, public services, environmental, stormwater. He has attended many charettes and neighborhood meetings.

Henry Sniezek said he has resided in Coral Ridge Isles for ten years. He has served for about four years on the Beach Redevelopment Board. He is the Broward County Planning Council's executive director and has worked for that organization for about twenty years. He felt his desire to serve the City and his experience would be a good fit for the Board of Adjustment.

Mayor Naugle thanked the candidates. Appointments will be discussed later on the agenda, although it may be delayed due to Commissioner Teel's absence.

The City Clerk said there was a fourth candidate recommended by Commissioner Hutchinson. Commissioner Hutchinson said the individual is Leo Hanson, but he was unable to attend today. His resume was submitted.

Action: Michael Madfis, Karl V. Shallenberger and Henry A. Sniezek were interviewed. Leo Hansen was not able to attend. See regular meeting for appointments.

I-B – Proposed Use of Rental Car Surcharge Funding For South Florida Regional Transportation Authority – Tri-Rail

Albert Carbon, Public Works Director, noted today he received notification that the Regional Transportation Authority's funding for this surcharge died in the Senate.

Mayor Naugle asked about the status of Tri-Rail. Roger Del Rio, Metropolitan Planning Organization Executive Director, said it is to be determined. Palm Beach County and that MPO has indicated they will cut back to the statutory limit requirement. Each County is presently allocated \$4.63 million. If that cutback occurs, Miami Dade and Broward counties could follow suit. He confirmed the Mayor's statement that the trains will operate, but possibly not on weekends or as frequently.

Action: Proposed state legislation to reallocate a portion of the \$2 rental car surcharge to Tri-Rail did not pass. No other action needed.

I-C – Proposed Amendments To Chapter 17, Code of Ordinances – Noise Control

Cate McCaffrey, Director of Business Enterprises indicated staff has worked with the City Attorney's office and Eric Zwerling, president of The Noise Consultancy, LLC, to develop amendments to the code with respect to noise control. Staff has listened to concerns of residents, businesses and interested parties and provided draft copies to them. Mr. Zwerling noted his experience in creating and training for enforcement of noise ordinances and various noise issues.

Mr. Zwerling said he was hired by the City to develop a reasonable and enforceable instrument that would balance between vibrant economic activity and protection of the City's residents. The proposed changes greatly simplify the determination of compliance for everyone's benefit. He noted the proposal would simplify measuring noise levels and make it possible for someone to purchase equipment from Radio Shack for instance at a cost of perhaps \$50. He believed this would dramatically improve the efficacy of the code. He referred to Table I and noted it is much easier to enforce. The levels are substantially the same, but complexity of the correction factors for duration of the sound is greatly simplified. The proposal would address multi-family dwellings or multi-use buildings and noise generated within the same building that is not addressed in the current code. It also recognizes that steady pure tones that drone on are relatively annoying. Currently, many issues are either not addressed or addressed vaguely. The proposal addresses such areas as animals, loading and unloading of trucks, construction times, emergency generators, residential HVAC air conditioners, landscaping equipment, motorboats and motorcycles. There are also a number of exemptions. Amplified sound generates a significant number of complaints. The proposal places reasonable restrictions as to time, manner and place. It will be relatively simple for compliance to be checked by the source. When the source is a residence or motor vehicle, there are plain standards at a specific distance, which is decreased at night. When the source is commercial, mixed-use or industrial, Table I limits apply as well as a new measurement method. Most complaints about amplified music concerns the repetitive thumping of base. Measurement in the C scale is proposed to regulate music in numerous jurisdictions across North America. For commercial, mixed use or industrial sources, measurements can be taken in the complainant's residence. With respect to special entertainment districts, they took into consideration the districts' importance. The proposal allows for the continuation of entertainment venues with some operational or physical modifications and provides protection to residential zones. Limits proposed allow for attenuation of sound with distance to levels that would protect

residential zones. They take into consideration the time and distance provisions within the special entertainment district.

Tom Demots, resident of Symphony Condominium, said there is a problem with music at the Symphony Condominium. He was surprised that an outdoor concert venue is permitted in a residential area. The thumping base starts at 8-9 p.m. and continues for six to eight hours. Mayor Naugle explained that the entertainment area existed before the condominiums were built. Mr. Demots indicated that had he been aware of the noise, he never would have purchased a unit. People have move out of the Symphony because of it. The problem is mostly with America's Backyard or Revolution. It is possible to hear the music inside his bathroom. He believed that other buildings have the same issue. He wanted something to be done about it.

Betsy Cameron, Special Entertainment District representative, said she created this district when there was nothing in the area but the Performing Arts Center. America's Backyard has noise meters, but have not previously known the exact standards, but now have that information. The proposed ordinance allows for outside ambient noise. She knew there have been a lot of calls about Revolution, but on a lot of nights Revolution was not open. The river and the breeze carries sounds. As the landlord for Revolution and other buildings in the area, they want to comply with the ordinance, but she did not feel it would satisfy some of the Symphony residents. There is a huge investment in this area; they brought this area of town back to life.

Ralph Enderby, resident of Esplanade Condominium, said he is within the line of sight of America's Backyard. The music is obnoxiously loud at 4 a.m. He measured the noise level last week at the sidewalk outside of America's Backyard; it was 25 Dba over the limit. He encouraged the Commission to adopt this ordinance. He asked it be clarified how officers would interpret the proposal.

In response to Mayor Naugle, Mr. Enderby provided his noise level measurement which were made a part of the record. Mr. Zwerling indicated the noise level drops to 70 Dba at five feet and 80 Dbc after 1 a.m. He indicated that he as well as the City have conducted a series of measurements that agree substantially with Mr. Enderby's measurements. The proposed levels will require some modification by the facilities to come into compliance. If they achieve these levels, residents will find significant improvement.

Vice Mayor Rodstrom wanted to be assured residents will see relief with this amendment. Mr. Zwerling explained that there will be relief. An individual will not be able to sit in their bathroom at 4 a.m. and sing along with the lyrics. The requirements are significantly more lenient than a number of other jurisdictions. He outlined various options available to businesses to come into compliance. There will be greater noise at closer distances.

Vice Mayor Rodstrom questioned the timeline of 7 a.m. for construction noise. Mayor Naugle felt construction employees need to start early because of the hot climate. Most job sites are finished by 3 p.m. or 4 p.m. Commissioner Hutchinson clarified the timeline is 8 a.m. to 7 p.m. Mayor Naugle felt it should be 7 a.m. Deborah Hernandez, Code Enforcement, clarified the code was not changed with respect to construction except for Sundays. It was made more restrictive for Sundays; starting at 10 a.m.

Commissioner Hutchinson pointed out that people working on their homes want to do so on their days off; Sundays for example. Vice Mayor Rodstrom suggested the ordinance be more specific to that situation. Commissioner Hutchinson felt it would be too convoluted.

Vice Mayor Rodstrom asked about motorcycle noise. Mr. Zwerling indicated the ordinance prohibits excessive revving. Vice Mayor Rodstrom asked about baffles. The City Attorney advised state law prohibits the alteration of factory installed pipes which is removing baffles. Mr. Zwerling commented with any noise source, one may choose to be either extremely permissible or extremely restrictive. Further restriction can be done if the Commission wishes. The City Attorney indicated there is a simple test to determine if baffles have been removed. Cate McCaffrey, Director of Business Enterprises, indicated it was not included in the ordinance because it is addressed by state statute.

Vice Mayor Rodstrom asked about limiting where motorcycles may go; in other words street noise. The City Attorney replied that it not possible.

Mayor Naugle noted that people have been cited for improper equipment. The City Manager said the police have been doing a variety of stops; they are following state law. This ordinance will help. Staff believes the ordinance is a moderate approach and to see how it goes when the ordinance is actually in effect. Staff is also concerned about motorcycles and believe they have done as much as the law will allow.

Mayor Naugle commented that the County gets concerned about the number of municipal citations.

Vice Mayor Rodstrom complimented staff. She was comfortable if it could be tweaked along the way. It is a start.

Mayor Naugle asked about generators. Mr. Zwerling indicated there is a reasonable standard in the code; 68 decibels. It is based on equipment market availability. When generators are running for the purpose of an emergency, it may be exempt, but not when it is running for testing purposes. Care was taken not to force people to buy super quiet, very expensive generators. It should be understood that it may be annoying to listen to a generator for thirty days, but it is a reality in South Florida.

Mayor Naugle commented that the numbers are not meaningful unless one has witnessed the measuring.

Mayor Naugle asked about watercraft. The City Attorney said some modifications might be required. Boats less than sixty feet baffled by bubbling out from behind at idle speed will pass. A go-fast boat with high exhaust and headers will probably not pass. Ms. McCaffrey noted that boat noise is governed by state statute. It does not specify a decibel level, just that the boat be properly muffled.

Mayor Naugle felt the ordinance is way over-regulation and will cause more problems than it solves.

Commissioner Moore asked why should there be a noise control for the entertainment district. Entertainment does not have to be noisy; what is the appropriate level for

entertainment noise. Mr. Zwerling indicated it is reasonable to assume that a number of facilities will be open air venues or those with open windows and doors. The code could be written to require the building be completely enclosed, but he did not think that is what the City wants. The current code limits protect individuals such as those in Symphony and Esplanade condominiums, for example. If the City wants to achieve inaudibility to neighbors, it will require complete enclosure of the facilities.

In further response to Commissioner Moore, Mr. Zwerling indicated that with every doubling of distance from a noise source, there is a reduction of approximately six decibels. The entertainment district provides a 500 foot buffer from a residential zone. With an initial distance of 15-20 feet and the 500 feet, there would be a reduction of roughly 30 decibels. Consideration was given to attenuation over a distance.

Commissioner Moore asked about consideration for the entertainment district being situated on water. Mr. Zwerling indicated the assumption of a six decibel drop did not take into account any ground or other attenuation factors, but it is an excellent thumbnail to use. Also it would allow outside facilities to drop their outside sound levels by as much as 10-20 decibels. Every ten decibels is perceived by a human as roughly halving of a sound level.

In further response to Commissioner Moore, Mr. Zwerling said at 1 a.m. the permissible sound level drops to 70 Dba which will attenuate to about 40 Dba. By and large it will be inaudible for those people.

Commissioner Moore questioned how sound levels were decided upon because no one discussed this with him. The City Manager explained this is the purpose of this item. Staff will do the will of the Commission. Some abuses have been seen, but other things are their nature. For example, windows and doors should not be left open. It is causing a problem. Because of the crowds, the doors open and noise escapes. Any particular noise level may be too loud to one individual and not to another. It has to be tried out.

Commissioner Moore thought there could be outdoor entertainment without it being loud. He questioned why the City should allow facilities to impact residents because there is an entertainment district. The City Manager indicated the City does not have to do so. There are not bands playing on the sidewalks.

Ms. Cameron said that America's Backyard is an outdoor venue and they play music. It is walled-in, but open to the sky; there are no live bands. They plan to install coverings to deaden some of the sound and dampeners to contain the sound. It is too loud. This ordinance will help. However, it has brought a lot of adults downtown.

The City Manager noted there are plenty of options. The intent was to provide a moderate approach to the problem and see how things work. Commissioner Moore complimented the consultant and staff. However he questioned the need for outdoor entertainment after 1:30 a.m. if it is disrupting residents' quality of life. The decibel level should decrease every one-half hour. He wanted such changes before it is presented for final reading. Ms. McCaffrey noted the noise level decreases at midnight during weekdays and 1 a.m. on weekends. Commissioner Moore wanted further reductions between 1 a.m. and 4 a.m. Mr. Zwerling noted that after midnight weekdays and 1 a.m. weekends, with 70 decibels measured at five feet, it will be inaudible for those residents.

In response to Mayor Naugle, the City Attorney indicated this matter will not go before the Planning and Zoning Board.

In response to Commissioner Moore, Ms. McCaffrey indicated the ordinance addresses sitting in one placing revving.

Mayor Naugle asked how people would be cited. The City Attorney said if a business does not comply, the City would issue a citation. The City Manager said the intent is to be able to write citations on the spot. The City Attorney said it would be a municipal code violation. The process would be similar to a traffic ticket. An appeal process before the special master needs to be established. Under Chapter 162 there is no provision for writing tickets, therefore the City is exercising home rule powers.

Mayor Naugle asked about a maximum fine for a restaurant owner. The City Attorney responded that staff has not gotten that far yet. The City Manager indicated a fine structure will be presented to the Commission. In further response to Mayor Naugle, the City Attorney indicated a fine for excessive motorcycle revving could be issued by a police or code officer. If an officer issued the citation and it fell under the uniform traffic code, it would go to the County Court. If it fell under the municipal code, it would go to the special master. People have a right to representation before the special master. If the code provides for potential incarceration, the City would be required to provide a public defender type counsel. The City Manager clarified that was not staff's intent. If the fine is not paid, it would be referred to a collection agency. If the individual is a Fort Lauderdale citizen, the City may have some remedies, otherwise there are fewer remedies. Mr. Zwerling noted in St. Augustine, officers carry in their ticket book a list of noise violations.

Commissioner Hutchinson believed this is a great first start but it needs to be tried out. In response to Commissioner Hutchinson, the City Manager said ordinance on the citation process will come forward as an ordinance before this part of it. Ms. McCaffrey indicated that staff will continue to work with business owners and make sure this is reasonable.

Mr. Zwerling noted in some cases a double-door system is used and in some cases setback variances might be needed. The intent is not to prohibit music after 1 a.m., but that the noise cannot leave the property.

Action: Proposed amendments were reviewed by Noise Consultancy, LLC, City consultant. Commissioner Moore favored graduated reduction of permissible noise level between 1 a.m. and 4 a.m. in the entertainment district. Mayor Naugle was opposed to the amendments. The City Manager indicated these amendments will not come forward in ordinance form until the code citation ordinance is presented.

EXECUTIVE CLOSED DOOR SESSION WAS HELD AT 2:32 P.M.

The City Commission shall meet privately pursuant to Florida Statute 768.28(16) relative to the following:

Mariland Tashman – GL 07-186C

Virginia Rossi – GL 07-544C

Tom Gonzalez, 17th St. Marina Investments, LLC &

Mastriana Development, LLC vs. City – Broward County

Circuit Court Case 0808136.09**MEETING RECONVENED AT 3:24 P.M.****II-A –March 2008 Monthly Financial Report**

No discussion.

II-B – Motorized Watercraft Beach Concession – Parasail Optional Service

In response to Commissioner Hutchinson, Cate McCaffrey, Director of Business Enterprises, did not know if the state legislation on parasailing passed; it is pending.

Action: Commissioner Hutchinson was interested in knowing if the proposed state legislation on parasailing passed.

II-C – Cyborg Payroll System – Audit Report

Vice Mayor Rodstrom wanted to make sure the recommendations are implemented. The City Manager said staff will implement according to the management's response unless the Commission directs otherwise.

In response to Vice Mayor Rodstrom, the City Auditor advised that in general management has concurred with most of the recommendations. The areas where there is not complete concurrence are not consequential.

Action: Vice Mayor Rodstrom wanted assurance that recommendations will be implemented by the management.

III-B – Board and Committee Vacancies**Audit Advisory Board**

Action: No Formal Action Taken.

Aviation Advisory Board

Mayor Naugle recommended Lee Alexander be reappointed to the Aviation Advisory Board.

Commissioner Hutchinson recommended Linda Iversen and Debora Van Valkenburgh be reappointed to the Aviation Advisory Board.

Action: Formal Action To Be Taken At Regular Meeting.

Beach Business Improvement District Advisory Committee

According to staff's recommendation, there was no objection to Commissioner Hutchinson's suggestion to follow staff's recommendation on appointments to this committee.

Action: Formal Action To Be Taken At Regular Meeting.

Board of Adjustment

Mayor Naugle suggested deferring action until Commissioner Teel returns.

Commissioner Hutchinson was concerned there are no alternates. The City Clerk understood the Commission wishes to move Ms. Centorino and Mr. Weihe into full positions. Also there will be a board meeting before May 20th.

Commissioner Moore recommended all three candidates interviewed today be appointed as alternates however Commissioner Hutchinson noted her candidate was not able to attend today. She was not sure she would agree with Commissioner Moore's recommendation. Three of the four have extensive background in dealing with the City's code.

There was consensus to move the current two alternates into full member positions.

Mayor Naugle suggested leaving the remaining positions open until the next meeting and the fourth candidate be invited to the May 20 meeting.

Commissioner Hutchinson recommended E. Birch Willey be reappointed.

Action: Formal Action To Be Taken At Regular Meeting.

Cemeteries Board of Trustees

Action: No Formal Action Taken.

Code Enforcement Board

In response to Commissioner Hutchinson, the City Clerk indicated there is one open alternate position.

Action: No Formal Action Taken

Community Appearance Board

Action: No Formal Action Taken.

Community Services Board

Action: No Formal Action Taken..

Education Advisory Board

Action: No Formal Action Taken.

Historic Preservation Board

Commissioner Moore recommended reappointment of Carolyn Dandy to the Historic Preservation Board.

Action: Formal Action To Be Taken At Regular Meeting.

Board of Commissioners, City of Fort Lauderdale Housing Authority

Action: No Formal Action Taken.

Insurance Advisory Board

Action: No Formal Action Taken.

Marine Advisory Board

Vice Mayor Rodstrom recommended Mark Swenson to the Marine Advisory Board.

Action: Formal Action To Be Taken. At Regular Meeting.

Northwest Progresso-Flagler Heights Redevelopment Advisory Board

Action: No Formal Action Taken.

Nuisance Abatement Board

Action: No Formal Action Taken.

Performing Arts Center Authority

There was consensus to reappoint the existing member to the authority.

Action: Formal Action To Be Taken At Regular Meeting.

Planning and Zoning Board

Action: No Formal Action To Be Taken.

Utility Advisory Committee

Action: No Formal Action Taken.

IV – City Commission Reports

Filming of Marley & Me

Vice Mayor Rodstrom noted the Marley & Me recent filming on Las Olas Boulevard.

AIDS Walk

Vice Mayor Rodstrom said she attended the AIDS Walk and presented keys to the city to several celebrities who were present.

Rescheduling June 3, 2008 Commission Meetings

Vice Mayor Rodstrom asked if the June 3 Commission meetings could be rescheduled to June 10. Commissioner Moore did not favor changing meeting dates often.

Lofts at Salboat Bend, Artists (ArtSpace)

Commissioner Hutchinson announced that ArtSpace Lofts at Sailboat Bend are open and occupied; she elaborated upon their activities.

Garage Sale by Council of Civic Associations

Commissioner Hutchinson referred to the recent Council of Civic Associations' garage sale and elaborated on its success. She felt the City should hold this event. Perhaps the City could work with a non-profit to hold it. Using City Hall garage was a good idea.

Mayor Naugle thought perhaps it could be held in the spring and fall.

Fort Lauderdale Branch Library; Six-Month Closing

Mayor Naugle noted the City received a notice today that the Fort Lauderdale branch of the library at Holiday Park will be closed for six months for renovations. He was concerned this is occurring when children will be on summer vacation and the lack of advance notice. Commissioner Moore pointed out the downtown library will remain available.

V – City Manager Report

The City Manager thanked Mayor Naugle for reporting a major graffiti incident on Saturday.

There being no further business to come before the Commission, the meeting was adjourned at approximately 3:41 p. m.