

CITY OF ST. AUGUSTINE

City Commission Workshop
October 8, 2008

The City Commission met in a formal session Wednesday, October 8, 2008 at 9:00 A.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Boles, and the following were present:

Roll Call:

Joe Boles, Mayor/City Commissioner
Donald A. Crichlow, Vice Mayor/City Commissioner
George Gardner, City Commissioner
Errol D. Jones, City Commissioner

Absent: Susan Burk, City Commissioner (Excused)

William B. Harriss, City Manager
Ron Brown, City Attorney
Karen Rogers, City Clerk
Timothy A. Burchfield, Chief Administrative Officer
Mark Knight, Director, Planning and Building
Mark Litzinger, City Comptroller
Jim Piggott, General Services Director
Paul K. Williamson, Director, Public Affairs
Robin Upchurch, Assistant City Attorney
Loran Lueders, Police Chief
Susan Goins, Recording Secretary

2. Discussion regarding the Noise Ordinance

Mayor Boles explained that the purpose of the workshop was to discuss the noise ordinance. He pointed out that the meeting was for the Commission to discuss the matter; it was not a public hearing.

Ron Brown, City Attorney, stated that a request had been received by the City Attorney's office for consideration of a plainly audible standard for the noise ordinance. He said staff would provide a presentation of the Code and the current procedures regarding the digital audible reading device. He explained that in 1999 a neighbor had complained about the noise from a commercial establishment. He said the neighbor decided to turn his speakers

on the commercial establishment, which generated a police citation. He said Judge Reddy reviewed the citation in court and determined that the city's ordinance was unconstitutionally vague. He said the city had hired staff from Rutgers University that trained the police officers on noise detection. He noted that he also assisted in drafting the current ordinance. He added that in terms of certainty in enforcement, the decibel level readings were more certain than the plainly audible standard.

Robin Upchurch, Assistant City Attorney, stated that the head of the noise technical assistance center at Rutgers University specialized in training and formation of ordinances that withstood legal scrutiny and assisted in creating an ordinance that would not be subject to subjective standards. She

said the ordinance provided a quantifiable measurement of sound. She pointed out that the allowable decibel levels in residential areas and during the evenings was lower.

Sergeant William Braddock, St. Augustine Police, stated that police supervisors had attended a four day class to learn the audible meter system, and it appeared to have solved problems with bars in the city. He explained that if police received a noise complaint, they asked the complainant's name and permission to enter their property. He pointed out that the police did not need a complainant's signature.

Mayor Boles expressed concern about reprisal for the complainant.

Sergeant Braddock noted that the complainant's name was only needed for police records; not prosecution. He explained that the noise meter must be calibrated before and after each reading to ensure that it was functioning properly. He added that 65 decibels was the main residential measurement.

Commissioner Gardner questioned whether there was a required minimum distance to measure the noise.

Sergeant Braddock replied negative. He explained that residents had the right to peace and quiet and noise from neighbors should not invade their space. He pointed out that the noise measurement must be taken from a general area in the house such as living room.

Ms. Upchurch played music at various decibel levels while Sergeant Braddock used the sound meter to demonstrate the system for the Commission.

Sergeant Braddock stated that the Conch House had noise problems; however, they bought a sound meter to ensure compliance.

Commissioner Crichlow questioned whether most noise complaints were in the evenings, and the response was affirmative.

Loran Lueders, Police Chief, stated that since January 2008 the Police Department had handled 532 noise complaints. He pointed out that the police had been using a meter for over 20 years; however, the old noise ordinance indicated that any amplified music or sound that was plainly audible could be cited.

Ms. Upchurch stated that there were several variables regarding plainly audible detection. She explained that Putnam County required that the complainant comprehend the content of what they were listening to; however, the Fort Lauderdale noise ordinance indicated that one would not have to understand the words.

Mr. Brown stated that the 5th District Court of Appeals had indicated that plainly audible sound was any sound heard by a person with normal faculties at a specified distance from the boundaries of the source of the sound; however, could not specify content of expression.

Commissioner Jones questioned why the Commission was discussing changing to a system that could not be measured.

Commissioner Crichlow explained that the owner of a hotel/motel had complained that noise on an adjacent property kept hotel guests up at night. He said the meter readings were not sufficient to trigger a violation; however, since the hotel/motel was commercial the decibel standard was higher. He pointed out that the purpose of a hotel/motel was to provide people with a quiet place to sleep. He suggested lowering the decibel level for hotels to the same level as residential. He added that the readings could be taken from inside the hotel rooms.

Commissioner Jones suggested that the city lower the decibel level to 60-55.

Mayor Boles requested statistics regarding the complaints, such as whether they were residential or commercial. He said if there were problems with repeat offenders at the current levels, they could adjust the fines.

Commissioner Jones stated that hotel owners wanted quiet for their guests; however, other establishments played music for their customer's enjoyment. He added that if a business owner could not play music in commercial areas, they would have no place else to go.

Commissioner Gardner expressed concern about music and noise levels in the historic preservation districts. He said the city had strayed from the original intent of the historic preservation districts and when the ordinances were set up they were based on the original Spanish design, which was a harmonious mix of residential and commercial. He said commercial establishments that relied on music as part of their entertainment could provide it without offending others. He added that he was more comfortable with the meter system, and he requested detail on the complaints.

Mayor Boles requested information regarding the time of day and week of the complaints. He suggested that staff provide sample ordinances from other historic districts with outdoor amplified music.

Commissioner Crichlow said there appeared to be Commission consensus not to change to the plainly audible system; therefore, staff should look at the source of the complaints.

Commissioner Gardner questioned whether there was a police officer certified to take meter readings at all times of the day, and the response was affirmative. He questioned whether police officers took readings without complainants.

Chief Lueders replied that police officers could take readings; however, they relied on citizen complaints.

William B. Harriss, City Manager, stated that the city would never solve all the problems; however, they could strive to create a balance. He said staff would look at the statistics and provide a report for the Commission.

Commissioner Crichlow stated that the city's reputation was important, because if the city was loud tourists might stop visiting the city.

Catherine Duz referred to the following:

- Contacted the bar next to her house, because they played loud music
- Called police to complain about music from the bar
- City needed a law that applied to everyone
- Did not know that a police officer could check the decibel level inside of her home

Mayor Boles encouraged Ms. Duz to discuss the matter with Chief Lueders.

Robin Cottawall referred to the following:

- Owned several businesses in the area
- The city needed to bring more people to the city; not and more restrictions

3. Adjournment

There being no further business, the meeting was adjourned at 10:29 A.M.¹

MAYOR

City Clerk, CMC

¹ Transcribed by Susan Goins