

MINUTES
CITY COMMISSION WORKSHOP
TUESDAY MAY 9, 2017 @ 1 P.M.
KATIE PIEROLA COMMISSION CHAMBERS

CALL TO ORDER @ 1:00 PM
PLEDGE OF ALLEGIANCE TO THE FLAG
ROLL CALL
PLEDGE OF PUBLIC CONDUCT

PRESENT: Mayor Shearon; Vice-Mayor Chappie; Commissioner Spooner; Commissioner Cole; Commissioner Maro

ALSO PRESENT: Sam Speciale, Police Chief, Alan Garrett; Gail Garneau, Code Enforcement.

PRESS: The Islander, Joe Hendrix and Anna Maria Island Sun, Chris Anne Esformes, Channel 7 News.

ORDER OF BUSINESS:

1. CITIZEN INPUT: OPENED

Jan Vosburgh spoke: 111 12th St. S, I would suggest 2 Ordinances, 1 for the commercial and 1 for the residential area. I hope you would consider to have a lower noise Ordinance for residential areas. Commissioner Spooner replied; we have one for residential its 10 decibels less.

Barbara Hug spoke: 611 gulf dr. I have several things I want to address. I had an ongoing problem at Imperial House with the Gulf Dr. Café and their band. It's never been addressed. They have a Chiki and a Tiki. When they have music there it sits almost on the street. There are so many residence that call me about the noise. They call me because I am on the board. I am having a problem with the new bar opposite of us (Tommy Knockers). It started on March 22, and Officer Hill came out and said the back door was going to be closed at 10:00 when band, the Police Chief is aware there is no insulation in that ceiling. I had a resident call me this morning and said you can hear everything, sound travels from there. They were there till 4am this morning. There is nothing to state when they need to close, they didn't have music but we heard them and their motorcycles leaving. The ambiance of the City is changing. Bradenton Beach is now becoming a place of Bars. It's very frustrating I don't want to have to call the police every night. How did the Gulf drive café get away with not putting the platform in there? Commissioner Spooner spoke: If you don't call them, we won't have any record of the complaints. Discussion continued.

Gary Drouin spoke: Want to thank the council for giving me this opportunity. I have been a professional musician and an audio engineer most of my life. When I became president of Save Downtown Outdoor Music, a 501 3c profit organization formed to challenge the impending noise ordinance of Downtown Sarasota. This is nothing new. The first thing I did when I became President was change terminology from noise ordinance to music ban it was never about noise it was about music. Next, real property line is the venue property, line and receiving land use is the complainants property line. The music was mixed in with the traffic noise and sometimes just the traffic noise was bringing in 65 to 70 db just in traffic noise. OSHA has permissible noise exposure. You can be exposed to 90 db for 8 hours before they believe it will harm you physically, hearing etc. At 92 db for 6 hours, 95 db for 5 hrs and 97 db for 3 hrs before your health is impacted. Now when you step away at 100 ft. it reads about 60- 65 db and that's not even on OSHA'S chart as being detrimental to your health. The decibel number is important. Where do you take it from? I directed all music complaints from downtown music venues, 90% of the complaints came from 4-5 residents of 1 condominium. I expect the same result here as well. Our civil rights attorney convinced me, the only way to win this was in civil court. The complainant would have to prove their health and wellbeing was being affected by the sound source. Part of business owners plan is music, to keep people after dinner and have a few more drinks and listen to the bands and to spend more money. A music ban may violate the business owner's civil rights. People come to Bridge Street for the entertainment and you will be effecting the lively hood of the

employees, the artist and the business owners. You have a nice little bed of hot bed of tourism on Bridge Street. If you do the music ban you will wipe out a lot of it. The last part of my speech is decibel readings, receiving land use, real property line, civil lawsuits, training police officers to read db levels at the complainer's door. It's all too complicated, what I suggest is set up an entertainment district exempt from music ban. With dedicated hours and days that work with the venue owners and community. When I was President with Save Downtown outdoor music I requested noise ordinances from all over the country. There were some that were progressive Orlando, Miami, New Orleans, Memphis, and several others where they set up an entertainment district where they were exempt from certain points in the noise ordinance. Discussion continued. Gary Drouin spoke: If I were any of these businesses I would definitely take you to court.

Scott Lubore spoke: Freckled Fin. Music is not noise. I live on the island as well, no one wants 100 decibels at their house, I get it I understand. If you have to control it I understand. Your noise decibel is not reasonable. To have the measurement done at the property line then you basically can't have speakers. The crowds and people start flowing around 6-7 pm and things get going now we have to drop it 10 decibels. How can we do this and change decibels in the middle of the music. We are serving families that Commission has spent a lot of money to get here. I would like to get your feedback because I am the only one in this room facing criminal charges.

Eileen Lubore spoke: Freckled Fin. We serve hundreds of families per week. I have the same reader the police use. I have measured the sound at lunch time with 4 tables, traffic going by, wind and water maybe, and we are always over 75 decibels. These things have to be looked at. This is a tourist town and they tell me every day how much they love the music and how they enjoy themselves. It's unrealistic for these bands to keep under 75 decibels. I have not seen this with other restaurants. We have been targeted and it is unjust.

Steven Shannon: Freckled Fin. I think the 75 decibel level is unfair and hard to stay in that time frame. If we break those levels I am now afraid of going to jail. Scott went to jail last time. I was supposed to go to jail but Scott went in my place. Music is a big part of our venue.

Amanda Escobio Ryan spoke: I live in Holmes Beach. I appreciate peace and quiet. I am also a Bridge St. Merchant. I am a wife of a musician as well. I worked diligently on the Noise Ordinance a few years ago. The problem we have now is not that the current is ineffective, it is compliant it's not being interpreted in its true spirit. When limitations were agreed upon with the intention that the measurement would be taken from property line not in front of the speaker. So it saddens me with all of the hard work and time put into this that we are now trying to tear it apart and start over again. The measurement should be taken in front of complainant's property line not in front of a speaker.

Joe Hendrix spoke: AMI Sun- I am a musician as well. We don't mind playing at reasonable decibel but it is hard to play at 75 decibel. It was meant to be measured from where the complaint was called. Or establish a 100ft area around. We have to find a balance the residents deserve some peace and quiet. I would ask for you to consider, I can't tell you how many times I have watched a wedding party come in and we roll off at 10 and people are saying, are you done? I would like to see an extension of time on Friday and Saturday nights. Let's find a happy balance.

Thida Sou spoke: I work here and live here for 10 yrs. This is my lively hood I am losing money here guys. I want to make a reasonable living here.

CLERK READ INTO RECORD- Exhibit A and Exhibit B

Michael White spoke: I have played at the Freckled Fin one of the things is there is no measurement of Ambient noise. You need a base line of what it is with no noise or without any music. You need a baseline. How much is this going to make a difference with the sound? Discussion continued.

Fred Bartizal spoke: I own the Bridge Tender. Loved Bridge Street from the minute I was on it. I guess what I am upset when people move in next to an airport then complain about the noise.

Eileen Labore spoke: Yes I went out and measured for 2 weeks every day with no music, no motorcycles nothing going on and we were at 78-83 decibel. We were over the decibel during the day that I was measuring.

Scott Labore spoke: Do you agree there is ambient noise on Gulf Dr? Was it music that was too loud? Was it cars? Was it people? There are a lot of extra factors here with the noise.

There are a lot of external factors creating noise.

PUBLIC INPUT CLOSED.

2. NOISE ORDINANCE DISCUSSION....

Vice Mayor Chappie. I would like to hear from chief on what the process is.

Chief Speciale spoke: I have been here for 30yrs and the Chief for 18 years.

We had a noise Ordinance back in 2004 it was a decibel reading and changed it and dropped the decibel and turned it into a nuisance Ordinance. The judge said what your idea of noise is not what everyone else is. In 2014 we took back the decibel system and took a reader into the parking lot and had people talking and went to the parking lot and read the decibels.

We have 2 ways of getting a complaint; we go to the area of the complaint. The second way the meter has to be certified and calibrated. It was 98 decibel across the street and 89 decibel at the property line. We came to the conclusion at that time the decibel rate was acceptable. We do check ambient noise also. They have to do it for at least 30 sec and not more than 5 min. We normally issue verbal warnings, tickets then arrest.

Commissioner Cole spoke: Will it measure from that place 100 yards or the place next to it combined. The noise from Island time and Freckled Fin both when they are playing?

Chief Speciale spoke: We have directional mic's. Will they get other noise, possibly, that's why we take multiple readings for different periods of time.

Commissioner Cole spoke: Could there be an acoustical thing to deaden the sound? Something they can do to compress the sound. Discussion continued.

Commissioner Cole spoke: Could you keep the decibel at 85 till 10pm?

Chief Special spoke: My concern is, I will enforce anything you set. They had a lot of people against raising the decibel but they raised it to 85 for weekend till midnight. Quality of life is not just for business owners but for the residence as well. This noise Ordinance hasn't been an issue since we got it in 2014, only after the arrest is that it is an issue.

Mayor Shearon spoke: We have had it for 3yrs and we haven't had a problem. Everyone could live with it. I am happy with the way it is. Our law enforcement is there to give warnings. Our establishments have residential around them to. My statement is it's been great for 3 yrs., now we have a major incident that we dealt with and now we are trying to maybe change things.

Commissioner Spooner spoke: Since 2014 and the drastic change in lowering the Noise Ordinance from 2am to 10pm happened, during that time when the change happened, was there an area of concentration of complaints that they kept getting complaints that forced that issue.?

Chief Speciale spoke: You know you use the example of buying a house by the airport and don't expect noise. Times have changed and there are a lot more people and Bridge St. has modernized and gotten more entertainment. Our complaints were over by the trailer park the Drift with the Bridge Tender.

Commissioner Spooner: How many complaints are we getting from 2014 and is it from 1 particular area from a few people complaining compared to who is affected by the ordinance. I would like to know the true balance. Are we going to negatively affect the 100 employees that work and live in Bradenton Beach for a few people are upset that they can hear the noise. I don't that the music isn't what's bothering them it's the fact that they can hear it.

Chief replied, so the question you are asking me is “are there only a select group of people making the complaints?” and Chief replied YES.

Commissioner Spooner spoke: Do these select group of people live in this red area? Our commercial district. Chief replied, there is a handful of people complaining. They are the ones “living next door to the airport” Commissioner Spooner spoke: This area has not changed.

Mayor Shearon spoke: The City has changed, Island Time used to be a parking garage now it’s a restaurant. I think there would be a different perspective if Sharky’s had outside entertainment.

Commissioner Maro spoke: To the Freckled Fin, did you understand the rules and regulations of the City, did someone go over them with you. Or did you just bypass it.

Scott Labore spoke: I understood completely. I do not understand the limit today, do you? Can you explain what 75 decibels are and what that sounds like with a band? Since we have opened business, has gotten better. Discussion continued.

Vice Mayor Chappie spoke: Barbara Hug brought up a good point. What is the situation down there Chief? Chief replied, for the record, it’s not my bar. When the Drift and Tommy Knocker opens the back door, all of the sound travels right out of the door. When we go there, we give a verbal warning. There is no difference happening on that 7th St. area and Bridge street area.

Mayor Shearon spoke: it seems like to me, being close to it. What happens at a certain time, the music gets turned up, then people start to talk loud and it gets louder. If the music is turned down everybody enjoys it.

Vice Mayor Chappie spoke: This is what happens with the Party houses, a lot of people is a small area and you get loud people, then add in the pool. This compounds the situation.

Chief Speciale spoke: I am not trying to put anything towards the venues or the City. As Bridge St. grows, the City has to give a little. As the governing body of the City you are going to have to come into some kind of an agreement with the residents and business owners. Progress is coming whether we like it or not.

Commissioner Cole spoke: Bridge Street draws a lot of families and everyone is having a good time. Chief replied: The time people on Bridge Street is shifting. People are staying out later and the entertainment is done. My suggestion would is to extend this on the weekend until midnight at 75 decibel and see how we are. Summer is coming, let’s extend this and see where we are.

Mayor Shearon spoke: We had 2 or 3 people that we lost and said they wouldn’t come back not just the noise but other things. We are still a residential city.

Commissioner Maro spoke: When the party houses are loud some have bands playing also.

Vice Mayor Chappie spoke: The Chief was talking about Commercial areas not residential. One of the things that concern me is 7th St. it has the major condominiums, there is a high concentration of residence.

Commissioner Spooner spoke: Could we say we would do this for the CRA district/overlay district? Vice Mayor replied, I wouldn’t want to make a decision today. Commissioner Spooner replied, you have to think about all of the people affected by this being their livelihood they depend on this.

PUBLIC INPUT: OPEN

Eileen Labore spoke: It was said last week, lets vote on this. Any workshop I have attended has been open. I would need to know if you are going to promote it that it would be like this and not like a workshop is supposed to be. For me, be specific about what a workshop is. This is not

communicating with everyone and having conversation to come up with solutions. Discussion continued.

Joe Hendrix spoke: I think this will work I think Sam is right on target extend the time till 12am and keep it at 75db.

Gary Drouin spoke: The decibel level will never be low enough. The same people in Sarasota that complained about the music downtown, complained about the opera singer as well. You need to make a balance with the complainers. Discussion continued.

Scott Labore spoke: No one has come here to tell you why you can't do it and why you should do it, but we are here at 1pm in the afternoon.

Barbara Hug spoke: I pleaded with my residents to come up here but they don't. Discussion continued.

Eileen Labore spoke: The night my husband got arrested we had a 2 person band. We had a 2 hour wait. Couples celebrating anniversaries. Everyone was having a great time. The officer came up, I asked if he had a complaint and he said no, I heard music. He took a reading from the host stand with the band across the street, our 2 person band and everyone dancing and having fun. This is not a reasonable arrest and it feels unjust. I sat all night waiting for my husband to get out of lockup. This is not a criminal offense. I was very disturbing and outrageous.

Scott Labore spoke: I think it would be a great idea to try extending the timeframe on the weekend.

PUBLIC INPUT: CLOSED

Chief Speciale spoke: I think this being public record everyone need to understand. Yes 2 yrs. ago they were giving citations last one being in April. The Owner, and his wife personally spoke to detective Diaz about the complaint and told him they were going to do whatever they could to stay in compliance. Diaz told them you have went through the warnings, verbals, and 2 weeks later it went to 98 db and he was arrested. We did not target anyone. We do not have this problem with anyone else.

Mayor Shearon spoke: We have a lot to digest about this and we should continue the discussion.

Vice Mayor Chappie spoke: I suggest to have a work session with maybe 2 items and then have it at a night meeting.

Vice Mayor Chappie spoke: Let make it a work meeting so we can give staff direction.

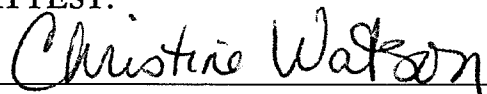
Commissioner Spooner spoke: Can we put a deadline on this maybe by the 2nd Commission Meeting in June. * Meeting date to be announced at a later date.

3. **ADJOURNMENT:** Meeting was adjourned at @ 3:25pm



Mayor William Shearon

ATTEST:


Christine Watson, Deputy Clerk II

NOTE: This is not a verbatim record.

From
Ray Hanson

Exhibit A

Hey There, Scott wanted me to share a few comments for the work session for the noise ordinance issues. The things I might suggest is that we all stop referring to music as noise. Music is not noise. We could also make the decision to take the FB reading at the point of complaint, not at the venue properly line, also raise the db limit to at least 110. Re zone Bridge Street as an entertainment zone. Allowing venues to have live music till midnight. If these changes were put in place the venues would thrive, people would view Bradenton Beach as an awesome place for fun good food and entertainment. The people who work in the service industry need to have a chance to make a living and entertainment helps keep tourists and locals frequently enjoying what these venues have to offer. The main thing that I want you to hear is in this is. **MUSIC IS NOT NOISE** These are my heart felt thoughts on this subject, I would be here in person but I'm out touring the U.S.

Terri Sanclemente (City Clerk)

Exhibit B

From: Commissioner John Chappie
Sent: Tuesday, May 09, 2017 1:02 PM
To: Terri Sanclemente (City Clerk)
Subject: Fwd: Noise Ordinance

FYI

Sent from my iPhone

Begin forwarded message:

From: Bob <bob.hartung@parkwood-consulting.com>
Date: May 9, 2017 at 11:42:52 AM EDT
To: 'John Chappie' <ward4@cityofbradentonbeach.com>
Subject: Noise Ordinance

Dear Commissioner Chappie,

I understand there is a hearing today to discuss the noise ordinance violations in Bradenton Beach. We own a condo near the Freckled Finn and there has been continued issues with noise violations, not only after 10:00 PM, but prior to 10:00 PM. I cannot be at the meeting today, but I want to voice my concern and the need for this to be corrected.

Thank you,

Bob

Bob Hartung
Mobile 952 239-6166
Fax 866 403-1805
bob.hartung@parkwood-consulting.com