

**Minutes of City Council Workshop
Downtown Action Plan
Monday, May 16, 2016 – 5:45 P.M.
City Council Chambers**

The workshop commenced at 6:00 P.M.

The following City Council members were in attendance:

Mayor: William C. Latham

Council members: Lee Buck Keith Doherty (*late*) Christine Hoffman
Bruce Thomason Phil Vogelsang Jeanell Wilson

Also present were City Manager George Forbes, Deputy City Manager Trish Roberts, City Department Heads, and City Clerk Laurie Scott.

Purpose of Workshop

Mr. Forbes discussed the recent history of the outdoor low volume ordinance and proposed changes. In addition, there would also be a discussion regarding a proposed change to outdoor seating requirements.

Chief Dooley suggested to Council the creation of a new section of the code of ordinances, “18-7-Outdoor and Acoustic Sound” to offer a standard for establishments offering outdoor dining. Additionally, the Chief clarified the definitions of the following terms:

- “plainly audible” (when music is involved) as the detection of rhythmic bass tones shall be sufficient
- “low volume” as sound played at a level such person outside the property line of the source of the sound, speaking in a normal tone, can be clearly heard (without assistance) by another person standing 36 inches away

Mr. Thomason asked for clarification regarding the difference in distance of property lines from the source of the sound. Chief Dooley clarified that regardless of how close the source of the sound is to the property line, the establishment must still meet the ordinance requirements.

In addition, Chief Dooley offered the following recommendation as part of the new section of the code of ordinances, 18-7 Outdoor and Acoustic Sound:

- Establishments issued a new Outdoor and Acoustic Sound permit shall not generate any sound from their outdoor dining area that exceeds the limits of the “low volume” guidelines.
- Outdoor disk jockeys and amplified bands are prohibited unless specifically allowed in writing in conjunction with Section 4-5 (Temporary extension of licensed premises) of Chapter 4.
- Establishments are prohibited to remove/move outdoor seating and tables while generating outdoor amplified and acoustic sound
- Sound may not be conveyed outside the licensed establishment by any means, including but not limited to open windows or open doors with the exception of entrance doors opened momentarily (up to 30 seconds) to allow ingress and egress of people.

Chief Dooley further explained one exception to this ordinance of which will allow establishments with permits issued prior to June 2010 (16 grandfathered businesses) to continue to operate under the rules placed at time.

Ms. Hoffman asked to clarify that when one of the 16 grandfathered businesses go out of business, then the new business that takes its place in the same building will not have the same sound permit as the previous business. Chief Dooley clarified that was correct.

Ms. Hoffman further asked if establishments can open their windows and music can be heard from inside the establishment by pedestrians walking by, would that be permitted. Chief Dooley responded by stating that the sound level must meet the “low volume” standard. He further clarified that an establishment can play live or recorded amplified music inside and it can be heard by pedestrians walking by, that is okay as long as the music/sound is being played at a level that citizens can still speak at a normal level.

Ms. Hoffman asked about how the new proposed sound ordinance would affect establishment that would hold outdoor events (such as weddings or birthday parties) using a band or a DJ on a regular basis (more than the two-time temporary permit that will be allowed). Chief Dooley explained that if the establishment falls under the old ordinance (as one of the 16 grandfathered establishments), this would be allowed. Ms. Hoffman responded by clarifying that a new venue would not be able to have live music for special events with the exception of the two-time temporary permit. Chief Dooley confirmed her statement.

Chief Dooley stated that there could be an exception entered into the ordinance for hotels or other establishments that host weddings.

Mr. Doherty asked when the original sound ordinance was suspended that limited amplified music. The Chief explained that it was put into place in 2010 because of large volume of complaints. Mr. Forbes added that the suspended sound ordinance helped lower the number of complaints but he also understands the Council’s concern of new business being restricted. Furthermore, Mr. Forbes stated that the downtown area is becoming more residential as it continues to grow and the sound ordinances must reflect that change as well.

Ms. Wilson asked for clarification in regards to how the level of sound/noise will be regulated or monitored and how fairness will be established. Chief Dooley affirmed that it would be the responsibility of the police department and it would be regularly monitored in an attempt to be proactive to avoid complaints.

Mr. Thomason stated that there were many complaints in 2010 in regards to noise complaints with the establishments in Beach Marine. He also stated that the sounds easily travel north and south over the intracoastal waterways and that the Council should be sensitive to the suggestion of increasing the allowed decibels.

Mr. Forbes suggested that a “special permitting process” may be an option to allow establishments more than two temporary permits for outdoor music. Chief Dooley suggested setting a number of allowance

for establishments that cater to weddings and special events. Mr. Forbes encouraged getting a set ordinance in place very soon to allow citizens and visitors to be able to enjoy the summer months by sitting outside.

When Mr. Doherty asked for clarification on the direction of the ordinance, Mr. Forbes responded by stating that there are three separate topics and two (extension of premises and ambient music) seem to be easily resolvable. The third (amplified outdoor music) being a bit more problematic.

Mr. Forbes mentioned the previous topic/concern brought up by Mayor Latham regarding special events and having the Council approve any event that serves alcohol. Mr. Forbes stated that he further discussed this topic with Mayor Latham and it was clarified that the Council approve any festival that serves alcohol. Mr. Forbes stated that he has asked the City Attorney to review the current special events policy and the concerns of Mr. Forbes regarding the involvement of City Council members with festivals. Mr. Forbes asked that the City Attorney report back to the Council in regards to any changes she would recommend to the policy. Furthermore, Mr. Forbes explained that until the special events policy (more specifically the policy for special events involving alcohol) has been reviewed by the City Attorney, Mr. Forbes has advised his staff to not accept any new application/reservation for festivals in 2016-2017. This request will exclude any current or existing reservations.

In response, Mr. Vogelsang stated that he would rather not spend taxpayer's money to have the City Attorney review the special events policy involving Council Members. Reason being that he spoke with Attorney Gray Schafer of the Ethics Commission, which offers a free service by the State of Florida, in regards to the statute of elected officials putting on a special event. In result, as long as there is no special benefit from putting an event, there is no issue with such action. Furthermore, Mr. Vogelsang stated that in conjunction with Mr. Doherty, they contributed over 54% (in 2016) of the special events budget by hosting the two festivals. Mr. Vogelsang stated that because of their involvement in the City Council, he wanted to make sure that there was no special treatment made in paying the required fees for the hosted festivals. Mr. Vogelsang reiterated that he had an in depth conversation with Mr. Schafer and offered to the audience to call Mr. Schafer for more information regarding that statute of elected officials hosting festivals.

Ms. Wilson stated that she did not believe that was the original issue stated by Mr. Forbes. Mr. Vogelsang stated that it was the original issue.

Mr. Doherty stated that he agreed with Mr. Vogelsang. Mr. Doherty further express that in order to host a festival, one must meet with the director of the Parks and Recreation department. Recently, there has been staffing issues in that department that included two resignations. In addition, Mr. Doherty suggested that because of these staffing issues, adding more new events would increase the work load of fewer staff members and ultimately may cause more problems in the future with the approval process. Mr. Doherty reassured his confidence in the new Director of Parks and Recreation, and suggested that with her competence and additional assistance, this issue may be resolved.

Mr. Forbes, responded by stating that a specific and open discussion should be had between himself and both Mr. Doherty and Mr. Vogelsang regarding festivals being held by elected officials. Mr. Forbes also

reiterated that he would like the City Attorney to further research the issue. Mr. Forbes further explained that his staff may feel pressured when working directly with a Council Member when planning an event. Furthermore, Mr. Forbes stated that Mr. Doherty and Mr. Vogelsang are aware of these problems and these issues need to be resolved. Mr. Forbes stated that it would be a good idea having the City Attorney to help with addressing these issues. Mr. Forbes did agree on reviewing and addressing the current policy regarding special events and festivals and making any needed changes that will assist in avoiding some of the issues in the future.

Mayor Latham stated that his last concern resulting from the previous City Council workshop was that plans were made without collective knowledge as a Council and a large event advertised as the world's largest outdoor cocktail party was approved. Mayor Latham stated that how that process happened and who was involved is worth looking further into.

Furthermore, Mayor Latham stated that it is important to let the system in place work for itself. Concerns can be identified and addressed. Mayor Latham stated in the past two weeks, he has been contacted by several people that have expressed their opinions regarding the process being handled the right way resulting in decisions that are best for the citizens of Jacksonville Beach.

Mr. Buck stated that he and Ms. Wilson attended an ethics meeting in Saint Augustine. After personally asking a question regarding Council Members planning festivals or special events, the attorney there stated that planning events that involve Council Members can be a "slippery slope" and one should be cautious. Mr. Buck further commented that the current situation at hand should be reviewed by the City Attorney to avoid any further issues.

Ms. Hoffman asked what the time period for the hold in new festival/event applications will be. Mr. Forbes responded by reiterating that currently approved festival reservations for the remainder of this year (2016) and currently approved reservations for next year (2017) will not be affected. Also, currently reoccurring events (two years in a row or more) that are already on the calendar also will not be affected. However, Mr. Forbes stated that no new events will be added to the events calendar. In addition, Ms. Hoffman asked what the timeline will be to allow new events to be approved and added to the event's calendar. Mr. Forbes responded by directing the question to the City Attorney for an answer. Mayor Latham interjected by suggesting to allow the City Attorney to have adequate time to review the policies and then make a recommendation to the City Council for review.

Mayor Latham adjourned the Workshop at 7:05 P.M.

Submitted by: Laurie D. Scott
City Clerk

Approved:



William C. Latham, MAYOR

Date: 6/6/16