

**MINUTES OF THE REGULAR MONTHLY MEETING OF THE COMPREHENSIVE PLANNING AND ZONING BOARD** of the City of St. Augustine Beach, Florida, held Tuesday, May 20, 2014, at 7:00 p.m. in the City Commission Meeting Room, City Hall, 2200 State Road A1A South, St. Augustine Beach, Florida, 32080.

**I. CALL TO ORDER**

Chairman Alfred Guido called the meeting to order at 7:00 p.m.

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

BOARD MEMBERS PRESENT: Chairman Alfred Guido, David Bradfield, Steve Mitherz, Roberta Odom, Elise Sloan, Karen Zander, Senior Alternate Jane West, Junior Alternate Zachary Thomas.

BOARD MEMBERS ABSENT: Vice-Chairman Margaret England.

STAFF PRESENT: Gary Larson, Building Official; James Whitehouse, City Attorney; Bonnie Miller, Recording Secretary.

**IV. APPROVAL OF MINUTES OF TUESDAY, MARCH 18, 2014 REGULAR MONTHLY MEETING**

Ms. Zander **MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MONTHLY MEETING OF TUESDAY, MARCH 18, 2014.** The motion was seconded by Ms. Odom and passed 7-0 by unanimous voice-vote.

**V. PUBLIC COMMENT AND DISCUSSION**

Mr. Guido asked for public comment on any issue not on the agenda. There was none.

**VI. NEW BUSINESS**

1. **DISCUSSION OF PROPOSED REVISIONS TO THE CITY'S NOISE REGULATIONS PERTAINING TO OUTDOOR MUSIC**, for the Board's review and recommendation to the City Commission as to whether proposed revisions to the City's current noise regulations, as specified in Section 9.01.00 of the City of St. Augustine Beach Land Development Regulations, should be adopted by ordinance.

Mr. Guido said the Board members were given copies of the City's noise regulations and a memorandum from Vice-Mayor Rich O'Brien, requesting them to review the current

regulations pertaining to outdoor music and forward any recommended changes to the City Commission. At the Board's last meeting, the Board forwarded its opinion that the current noise regulations should stand as they are and simply be enforced, and chose not to make a recommendation to the Commission to revise the regulations. Obviously, the Commission found this to be unacceptable, and has sent the issue back to the Board for further discussion and a recommendation as to how the regulations should be revised.

Mr. Larson said staff has looked everything over and agrees that the regulations in place are fine, they just need to be enforced, which will be reiterated to the City Commission. The only possible change he recommends would be to basically prohibit live bands outside at any establishment, with the exception of an individual guitarist or pianist who doesn't exceed the maximum allowable decibel levels defined in the current regulations.

Mr. Bradfield said at the Board's last meeting, he asked how many noise complaints Mr. Larson had received in the last 10 years, and Mr. Larson's answer was two complaints.

Mr. Larson said he's received two more complaints since the Board's last meeting, one from the music coming from Jack's Bar-B-Que on the corner of A Street and A1A Beach Boulevard, and one regarding the guitar player at Salt Life Restaurant on A1A Beach Boulevard across from the pier, but the outdoor music at Salt Life shuts down every night at 9:00 p.m. He's gotten complaints in the past about the Oasis Restaurant, which doesn't have outdoor music but music played inside, but they wouldn't close their windows, so the music was heard outside by the neighboring residents. The Oasis now closes its windows at 9:00 p.m. and since then, he's had no further complaints from the neighbors. He can't respond to how many noise complaints have been called in to the City's Police Department in the past, as these complaints were forwarded directly to him. It will be up to the Chief of Police to purchase new decibel meter equipment and train two or three officers to use it to measure decibel levels to enforce the current noise regulations.

Mr. Guido asked for public comment.

Linda Ringwood, 8 F Street, St. Augustine Beach, Florida, 32080, said she submitted a letter basically asking the Board to take into consideration the residents who live near A1A Beach Boulevard, which is where most of the businesses requesting outdoor music are located. She loves music and likes to hear it played in restaurants and bars, but she also likes to listen to music at home without being subjected to loud music blasting from nearby establishments competing with each other to attract more clientele.

Mr. Guido asked about piped music.

Mr. Larson said piped music is allowed, as long as it complies with the maximum allowable decibel levels. He's never gotten a complaint about piped music.

Ms. Zander said Section 9.02.12.A.7 addresses loudspeakers, and says, "No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device for any commercial purpose, which produces, reproduces or amplifies sound in

such a manner as to create a noise disturbance or be plainly audible across a real property boundary.” She asked if a speaker isn’t a loudspeaker.

Mr. Larson said yes, it is.

Ms. Zander said Vice-Mayor O’Brien’s memo says there is no code or regulation that prohibits playing outdoor music or amplified music outdoors except at garage sales, but she thinks what she just read aloud from the code prohibits the playing of live speakers in a way that would be plainly audible across a real property boundary. Also, Section 9.02.15.E of the noise regulations says, “No permit may be issued to permit the use of any loudspeaker or sound amplifier on the exterior of any building which at any time exceeds the sound level limits in Table 1 except those used for emergency warnings.” She asked how the Music-by-the-Sea concerts at the pier are permitted.

Mr. Larson said the City Commission, not this Board, allows them by special exception. This whole situation about revising the current noise regulations pertaining to outdoor music was started by an individual who said he would not put speakers outside when he applied for, and was granted, a conditional use permit, but he then brought in a band and put speakers outside. The neighbors across the street didn’t like this, which is why they’re addressing it. Staff’s recommendation would allowed this individual to have speakers at his establishment, as long as he has only one guitarist or pianist, not a band, and the music coming from the outdoor speakers cannot be heard from his neighbor’s lot.

Mr. Guido said he agrees live bands outside should be prohibited, because if they are allowed, the City may well end up with something like a “battle of the bands,” with competing establishments cranking up their amps to attract more people, as pointed out.

Mr. Bradfield asked if it isn’t the case that no one really has a problem with bands, they have a problem with what the noise level is from those bands after a certain hour. Right now, there doesn’t seem to be any issues apart from application inconsistencies that allow some establishments to have outdoor music and prohibit others from having it, so he agrees with some of the points Vice-Mayor O’Brien made in his memo in that everyone should be held to the same standards, whether businesses have music by exception or other policy or use. There shouldn’t be a specific noise ordinance for one business and a different one for another, the noise ordinance should apply equally and fairly to everyone.

Mr. Guido said the one thing he has a problem with is that he doesn’t think the lack of complaints is really addressing the situation, as it’s fairly well known that the equipment for measuring the noise level has not been adequate for a number of years, and that enforcement on any complaint has basically not been done, because there’s no accurate way to measure decibel levels that may exceed the maximum allowable levels.

Mr. Bradfield said he thinks the important thing to note here is that they’re moving in the direction of enforcement of a policy that hasn’t previously been enforced. If people know they have a right to complain and the City has an accurate way to measure decibel levels to verify complaints, they’ll be able to see if there is a legitimate noise problem.

Up until now, there hasn't been any way to verify complaints or measure and enforce noise levels, so it doesn't make sense to him to revise the noise regulations until the City actually has a way to implement and enforce them to see if there really is a problem.

Mr. Mitherz asked if the Chief of Police is on board with having two or three officers trained to respond to complaints and operate equipment to measure decibel levels.

Mr. Larson said he doesn't know, but this will be brought up at the City Commission's next regular monthly meeting on June 9, 2014.

Mr. Whitehouse said he thinks one of the main things to focus on is not whether or not there are complaints about noise, but the technical aspects of the noise regulations, and what the Board thinks they should be. Maybe they think decibel levels are not the way to go, but the standard should be that noise shouldn't be plainly audible at a distance of 200 feet, for example. A lot of jurisdictions, including St. Johns County, have gone from the standard of measuring noise in decibel levels to a plainly audible measurement. To some extent, he thinks this is what the Commission wanted the Board to look at, as there may be different standards in the current noise regulations making enforcement a bit difficult. Obviously, the Police Department will do whatever the Commission tells them to do, as they work for the Commission, so if the Commission tells the Chief he needs to get some people trained to operate equipment to enforce the regulations, that's what will be done.

Mr. Bradfield said he'll make a motion to recommend the current noise regulations not be changed or modified, but enforced, at some reasonable level, with the proper technology or equipment necessary for enforcement. If the enforcement of the regulations indicates there is a noise problem, they can then revisit the regulations and revise them.

Ms. Zander said Mr. Larson recommended the regulations be revised to allow a guitarist or pianist with amplification allowed as long as the music doesn't exceed the maximum decibel levels as defined in the current regulations.

Mr. Larson said he also recommended live outdoor bands be prohibited.

Mr. Bradfield asked how this changes the current regulations, as basically a guitarist or pianist who doesn't exceed the maximum decibel levels is allowed now.

Ms. West said there is a big change, because it allows for outdoor music, which is what a lot of the City's entrepreneurs have been requesting. She thinks Mr. Larson's suggestion makes a lot of sense, because it bridges the divide and solves the problem for restaurant owners who are struggling to attract business. Outdoor music would still have to comply with the decibel levels for daytime and nighttime, as set forth in the noise regulations.

Mr. Whitehouse said this would only apply to properties that are not already allowed to have outdoor music by a special use or conditional use permit, which is why, he thinks, staff has made this recommendation. It's his understanding that the complaints from the City Commission were that there are all these properties that aren't on the same footing

with other properties that have gotten a special or conditional use permit to allow outdoor music, and these property owners also want to have the ability to have outdoor music.

Mr. Bradfield said from that end, he'll revise his motion to include Mr. Larson's recommendation, as he thinks it addresses the issue of the selective enforcement of the noise regulations and allows everyone to operate under the same protocols and rules.

Mr. Bradfield **MADE A MOTION TO RECOMMEND TO THE CITY COMMISSION THAT THE CITY'S CURRENT NOISE REGULATIONS, PER SECTION 9.01.00 OF THE CITY'S LAND DEVELOPMENT REGULATIONS, BE UPHELD, ENFORCED, AND AMENDED TO PROHIBIT LIVE BANDS OUTSIDE AT ANY ESTABLISHMENT EXCEPT FOR A SINGLE GUITARIST OR PIANIST WHOSE MUSICAL ENTERTAINMENT DOES NOT EXCEED THE ALLOWABLE MAXIMUM DECIBEL LEVELS PER SECTION 9.02.11 OF THE LAND DEVELOPMENT REGULATIONS.** The motion was seconded by Ms. West and passed 6-1 by roll-call vote.

Mr. Mitherz	Yes
Ms. Odom	Yes
Mr. Guido	Yes
Ms. West	Yes
Mr. Bradfield	Yes
Ms. Sloan	Yes
Ms. Zander	No

## **VII. OLD BUSINESS**

There was no old business.

## **VIII. BOARD COMMENT AND DISCUSSION**

Mr. Mitherz said he noticed Conehead's Ice Cream on A1A Beach Boulevard is building something, and asked what it is. He also asked if they'll get to see the plans for the new Courtyard by Marriott when the plans are finished going through the review process, and when the Board could expect to see plans for reconstruction of the St. Augustine Beachfront Resort, which is currently undergoing demolition.

Mr. Larson said Conehead's is installing a retractable awning, which is totally permitted as it meets setback requirements, to cover and shade the existing outside seating. He'll probably have the Courtyard by Marriott plans available for anyone who wants to see them in his office next month. He has absolutely nothing in concrete for reconstruction of the St. Augustine Beachfront Resort aside from the demolition plans and permit issued to

tear down the two-story section of the building which contained the hotel office, kitchen and conference area. To the best of his knowledge, the plan is to strip the current 142 rooms to just a skeleton so the concrete block walls are all that remain, and then restructure them for future rentals. If and when plans for the first phase of the possible new resort are submitted, they will be brought before the Board for informational purposes if they meet all the setback and building requirements, or in the form of whatever zoning or special use exception application will be required if they do not.

Mr. Guido asked if Salt Life Restaurant has ever gotten any additional parking.

Mr. Larson said yes, Salt Life has leased additional parking space from Taylor Rental, and from Key International, the new owners of St. Augustine Beachfront Resort, so at least for the next year or two, they'll have enough parking. If they lose this additional parking, their business will disappear with it.

Ms. Odom said no, they'll just use the parking at the pier, which they're doing now. On her way over to this meeting tonight, she saw people parking and getting out of their cars at the pier parking lot, and walking straight across the street to the restaurant.


Mr. Larson said he's not seen this, but that's an enforcement issue.

Mr. Guido said he's seen it too, and Salt Life's employees are doing the same thing, parking at the pier parking lot and walking across the street to go to work.

Mr. Larson said he's seen most of the employees parking at the St. Augustine Beachfront Resort site. It's already been discussed as to how they're going to fence off the leased parking space before the demolition of the hotel rooms begins.

## **IX. ADJOURNMENT**

The meeting was adjourned at 7:47 p.m.

  
Chairman

  
Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE VIDEO CAN BE FOUND AT [www.staugbch.com](http://www.staugbch.com) OR BY CONTACTING THE OFFICE OF THE CITY MANAGER AT 904-471-2122.)