

City of Coral Gables City Commission Meeting
Agenda Item F-1 and G-5
July 13, 2021
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Michael Mena

Commissioner Rhonda Anderson

Commissioner Jorge Fors, Jr.

Commissioner Kirk Menendez

City Staff

City Manager, Peter Iglesias (Absent)

Assistant City Manager, Ed Santamaria

City Attorney, Miriam Ramos

City Clerk, Billy Urquia

Assistant City Attorney, Gus Ceballos

Public Speaker(s)

Colby Leider, Leider Acoustics

Dr. Gordon Sokoloff

Debra Register

Enrique Bernal

Agenda Item F-1 and G-5

F-1: An Ordinance of the City Commission of the City of Coral Gables, Florida, amending Chapter 34-Nuisances, Article VI “Noise,” Section 34-170 “Exemptions” of the City Code to create an exemption for outdoor live amplified music on private property in the Central Business District, subject to approval of a permit and conditions; providing for severability clause, repealer provision, codification; and providing for an effective date. (Sponsored by Vice Mayor Mena)

G-5: Presentation from Leider Acoustics regarding noise levels (Sponsored by Commissioner Anderson)

Mayor Lago: Time certain 6:30, we are only running an hour late, F-1.

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Agenda Items F-1 and G-5 are related – Ordinance amending Chapter 34, Nuisances Article VI “Noise” and Presentation from Leider Acoustics

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City Attorney Ramos: F-1 is an Ordinance of the City Commission of the City of Coral Gables, Florida, amending Chapter 34-Nuisances, Article VI “Noise,” Section 34-170 “Exemptions” of the City Code to create an exemption for outdoor live amplified music on private property in the Central Business District, subject to approval of a permit and conditions; providing for severability clause, repealer provision, codification; and providing for an effective date. This ordinance is on second reading. There were a couple of changes made, Mr. Ceballos.

Mayor Lago: And if I may, just one second. I’d like to have F-1 come together with G-5, if the Commission will allow me.

Assistant City Manager Santamaria: Mr. Mayor regarding G-5, we have Colby Leider from Leider Acoustics and he’s ready to make the presentation.

Assistant City Attorney Ceballos: Good evening Mr. Mayor, Vice Mayor, Commissioners, Assistant City Attorney Gus Ceballos. As the City Attorney stated, this item is on second reading. There are two changes since first reading; one is a clarification that the holder of a permit may appeal any sort of revocation or amendment to said permit. Additionally, there is direction to staff to study and evaluate the effects of this ordinance, specifically for a period of six months and to return back in January of 2022 with a report on said findings. If you have any additional questions.

Vice Mayor Mena: I’ll be brief because I know Commissioner Anderson also has some comments and Mr. Leider. The main thing I would say, because we talked about this last time, but the main thing I would just highlight for today is that the whole idea behind this is to have staff work with any given applicant to come up with basically a noise attenuation plan that’s appropriate for the site, and that’s because not all sites are created equally, sound reverberates in different ways. So, the location of not only the site, but also the source of the music within the site are all very important factors that you have to consider in terms of what the appropriate decibel should be, etc. So, the idea here was to have and the way it’s written is have a maximum decibel level, but again, it’s very clear that staff will work with the applicant on the plan and for any given location and maybe far less than the maximum decibel level or maybe attenuated in other ways based on the speaker’s location, the musicians, whatever it might be. So that’s the idea here. It’s to support our business community, make our downtown a vibrant place where people can enjoy outdoor music in certain settings on private property. We are not talking about any public property, we are talking about on private property, and to me, it’s a better approach to do it on an applicant-by-applicant basis and really come up with a customized plan for lack of a better word, that works and to adjust it as you go, by the way, depending on what the results of that initial plan are. So that’s the reason its structured the way it is. I’m happy to have a discussion on what appropriate levels are and are not, but again, I think it’s a site specific evaluation that needs to be made and the goal here is to try to support these businesses that are trying to have entertainment for their guests on private property, outdoor dining venues and things of that nature, which this last year more than ever we’ve come to appreciate those sort of outdoor dining and entertainment venues. So those are my remarks as far as, unless anybody has any questions and otherwise, I’m happy to turn it over to Commissioner Anderson on her item G-5.

Commissioner Anderson: Well, I just had a couple questions for you, Mr. Mena.

Vice Mayor Mena: Sure.

Commissioner Anderson: The way I read this and maybe I'm misinterpreting is, typical establishment that it's on Miracle Mile, it's on private property, they can have the speakers right on outside.

Vice Mayor Mena: It's not speakers though, it's not DJ's anyways, its only live music, so it's not just amplified music, its live music.

Commissioner Anderson: Well, I understand, live amplified music, depending on where the speakers are, okay. So as far as a need for decibel level that would reach beyond the property line, how far out did you anticipate that sound needing to travel?

Vice Mayor Mena: Well again, that's going to be determined in part by the noise attenuation plan that staff will work up with the applicant. My recollection of what the measuring stick would be at, was it 100 feet?

City Attorney Ramos: It's at 100 feet, which is standard and there is also kind of a maximum of 85 decibels on the high end, but of course through the permit process it can be lower.

Vice Mayor Mena: Correct.

Commissioner Anderson: Okay. So, here's a couple of my thoughts and observations. 100 feet would be out in the middle of the street, across the street literally, that's a length of an entire property lot. While it makes sense for events when you are having an event and this is the way the original origin of this ordinance, it doesn't make sense to go across the street, measure the music coming from an establishment. So, utilizing the ordinance that Mr. Leider shared with me from Mt. Dora where they spent 15 months studying this, they had a ten-foot distance, and I've gone up and down the Mile a few times and I've noticed that times where the noise seemed exceedingly loud, like you didn't want to walk in front of the location versus when it didn't seem exceedingly loud, and it was enjoyable music. A friend of mine went by one of the establishments this past weekend and it was measured at 70 decibels, and I agree that that was enjoyable. My suggestion was to follow what Matt Thor did for right now and go to a 75-decibel level in the ordinance and to measure it at 10 feet, because otherwise you are going to be measuring it from across the street of the establishment. Do you see a need for that music to go beyond the sidewalk?

Vice Mayor Mena: Potentially, first of all, I think it depends on, first of all a few things; number one, Miracle Mile has its own set of rules here, right, that if you are on the public right of way on Miracle Mile this does not apply.

City Attorney Ramos: Right. I don't think there is any property on Miracle Mile that this would apply to, because its only private property, outdoor private property.

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Vice Mayor Mena: This would not impact Miracle Mile in any way, so that's first. Second of all, I think it depends on the property and the size of the location. There are locations that they may have 100 feet worth of outdoor space or 200 feet worth of outdoor space where the people at the back of their own private property maybe 100 feet away from the music, and so, again it depends on the location. The goal again, is for staff to work that out with them, again, what direction our residents are located. Maybe there is only residential in one direction, maybe you are pointing the music in the other direction, and you are otherwise making different attempts to attenuate the noise.

Commissioner Anderson: I don't know a location like that, that would have that much private property and perhaps we should hear from Mr. Leider first.

Commissioner Anderson: I recall seeing you there, the good Mayor's celebration after his election, it was a large outdoor private property.

Commissioner Anderson: But that's not in the Central Business District.

Mayor Lago: It is.

Commissioner Anderson: Not according to the map you have drawn.

Vice Mayor Mena: I believe it is, but I'm not sure. That's an example off the top of my head.

Commissioner Fors: This wouldn't apply under Giralda either, right.

Vice Mayor Mena: Correct.

Commissioner Anderson: Okay. We are talking about from the outside of the property.

Vice Mayor Mena: You've asked me for an example of a property, that's the first one that came off the top of my head.

Commissioner Anderson: Okay. Okay.

Vice Mayor Mena: But the point is that it goes back to my main point which is, it's a property-by-property assessment by staff to determine what the appropriate, and they may determine on a given property, to your point, it should be 70, but maybe on another one it doesn't need to be 70. And so, the idea is to customize it in a way that's appropriate for that establishment and its guests. A few other points I think are important here. We are implementing hours of operation, right, so this is not just like all hours of the night, we actually at pretty conservative hours on this relative even to Miracle Mile and Giralda, number one; and number two, I try not to deal in like the sort of the story of somebody told me they were walking by, and they wanted to walk around because it was too loud. I'm sure that's true, but at the end of the day these establishments that are looking to do this, they are going to attract customers, and so, presumably there are people that will be interested

in that and may like that sound, and if they don't, they won't come, and then the establishment it won't be in their best interest to do it. So, I think that sort of governs itself. Again, the idea here is, I don't think there is a one-size fits all solution, I think that it's something that should really be customized to each specific property. I think there are aspects of it that should be one-size fits all like the hours of operation, things like that, that are built into this. The decibel level should depend on the property, and I think the location of the sound and any attenuation efforts should depend on the property as well.

Commissioner Anderson: I'd like you to hear from Mr. Leider first.

Vice Mayor Mena: Sure. I would add that, by the way, I did not have an opportunity to meet with Mr. Leider in advance of today's meeting. I didn't know he had been hired until we received your memo, so there seems to have been a lack of communication between the Manager's office, I'm not sure if the rest of my colleagues were aware of it, but I found out when I received your memo.

Commissioner Anderson: That's why I did the memo.

Vice Mayor Mena: Right.

Commissioner Anderson: I tried to give you everything I knew.

Vice Mayor Mena: Right.

Assistant City Manager Santamaria: My apologies to the Commission to not to have received notice that falls solely on our office, and I apologize for that.

Mr. Leider: Mr. Mayor, Madam Attorney, Commissioners, it's very nice to be here. My name is Colby Leider, and I will speak for less than ten minutes, and I was asked to give a very quick demonstration about decibel levels. So, I will give you a quick story about myself. I was a professor at the University of Miami for 15 years, hence the bowtie, and lived here for five years and my wife and I now reside in the Dadeland area. I've always studied music and math and I love sound, I love acoustics, and I think there is an easy solution to your problem. So here is something that is called the wheel of acoustics. This was written by a guy in 19-something or other, 64, about the science of acoustics, and you think about dolphin acoustics and sound in your living room, sound in your house, and acoustics is a very wide-ranging discipline, but it affects human behavior quite a bit. Sounds make us feel things. So, some sounds make us sad, some sounds make us happy, some sounds irritate us. So, I dissertation at Princeton was actually on annoyance. So, I sit on this new committee of the Audio Engineering Society called Annoyance and Loudness. And so, we are trying to create a KPI, Key Performance Indicator of what makes people annoyed and what kinds of sounds make them annoyed, and it's a very complicated issue. So, here is my talk. I have my time around, what is acoustics? – we just spoke about that. Urban Psycho Acoustics sound and the populous, so we are here tonight to talk about sound in Coral Gables. Noise ordinances – It is my opinion that there are relatively few noise ordinances that make people happy, and what I really appreciate is that you all are doing something proactively that you are doing this ahead before you

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get a billion calls, because if you don't, you are going to get a billion calls, and finally a demonstration. And so, that's the call I get from Peter's office, which is, what does an EB decibel sound like? So, I'm going to pick some music, or you all are going to help me pick some music. We are going to hear it. I have my home theater system my grandmother from Austin and my wife is listening from home and she is very happy, let me tell you that I do not have those speakers, I'm not sure where they are. She is very happy that I don't have that sub-woofer in our house, because I have about 25 speakers in my house.

Commissioner Anderson: And this is going to be at what, at 85 is it?

Mr. Leider: What's that.

Commissioner Anderson: 85 decibels you are going to demonstrate?

Mr. Leider: Well, I do whatever number you tell me.

Commissioner Anderson: We need to know what 85 sounds like, and we need to know what 75 sounds like.

Mr. Leider: I will exactly show you what 75 and 85 sounds like.

Mayor Lago: Can we build to a crescendo here. I'd like some notice here.

[Laughter]

Mr. Leider: We can do it and Mr. Mayor, you're on the hook for selecting the song. What song do you want?

Mayor Lago: Maybe a little Andrea Bocelli, what do you think, Bocelli.

Mr. Leider: My wife had suggested Luis Miguel, she's from Ecuador.

Mayor Lago: Not bad. You've been watching the Novella lately? I know you have, don't deny it.

[Laughter]

Mayor Lago: I was forced to watch it every night, forced.

Commissioner Menendez: Everyone feel free to dance if you find something you like.

Mr. Leider: Alright, couple more slides and then the demo and then I will shut up. I think we skipped a slide. Alright – Urban Acoustics – Urban Psycho Acoustics...[inaudible – off mic]...

Commissioner Anderson: You're talking about acoustics.

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Mr. Leider: The audio guys are always the worst. There is a story my dad told me; the cobbler's kids always wear the worst shoes. Same thing in my house. So, people like to hear sound and we want them to be able to hear that, but we also want to be able to live in our homes with privacy. We want to be quiet and when I go to sleep, I want it to be quiet and I'm sure you do too. So, there is no reason why both things can't exist. I work for a startup called Magic Leap in Plantation Florida on the side, and we have a giant open office space. So open office means no cubicles, it's just a billion people sitting out in the open, and productivity is actually quite down, because it is so loud. Everyone is always talking, making noise. So, like I said, we don't want to hear our neighbor's music and the big thing is we don't want to hear sounds that we don't want to hear. We are hard wired biologically for that. I'll wrap it up. I know that we are running late here. Here's my big point, I'm not making any political stances. I have zero interest in politics as a life-long libertarian, but I will tell you, here is my recommendation for the City of Coral Gables. Some ordinances are supremely vague. The plainly audible standard of Miami-Dade County after 11 p.m., I think it is, you can't make a noise that is plainly audible quote/unquote, after 11 p.m. at 100 feet, but plainly audible to who? It makes the lawyers rich and let's maybe bring some science. An ordinance that is perfect for one city is not going to be the perfect ordinance for another city. So Coral Gables needs a very customized tailored thing. I've lived here five years; you all have the most beautiful city in the country. This is a spectacular place that is unique, not just in the State of Florida, its unique in the country, its unique in the world. And so, here's another point, ordinances should address sub woofers and base, so this is something I've been dealing with on South Beach as an acoustical consultant for several years. After 10 p.m. a lot of the complaints from hotels on South Beach come from people staying there, its midnight, they want to go to sleep, they are next door to the Clevelander, and a lot of, I would say a lot of remedy to those folks has come from agreements between hotels and bars where the bar simply agrees to turn off their sub-woofer after a certain time. In the case of one of my clients, its after 10 p.m. and that solves probably 90 percent of their problems. Civility and neighborliness are the first line of defense. It is very common that emotion runs very high with acoustical issues and it's amazing how quick that tempers run high and there is no need for that. Building codes – Building codes should address acoustics. So, when I spoke with Commissioner Peter, City Manager Peter the other day, we were talking about the role of architects and if you all are going to do restaurant and a bar on top and there are other condominiums, there should be some kind of legislation that requires that the architect specify this and that, in my opinion. And the effect of our experience unwanted sound is emotional, science is not. So, this is why I'm a big proponent of not plainly audible at 100 feet, but X number of decibels. So that's it. Red light cameras, red net microphones, my company is, we are actually building red light microphones, it can go on anything. So, I'm going to play some music. Mr. Mayor what was your choice?

Mayor Lago: I defer to Commissioner Fors. I think he's a big advocate of rap, I think, the kids are calling it that now.

[Laughter]

Mayor Lago: Yes, that's what they are calling it now.

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Commissioner Anderson: The rapping Commissioner. [Laughter]

Mr. Leider: Commissioner Anderson is a big fan of rap.

Mayor Lago: Yes, that's my understanding. That's what the kids are calling it now.

[Music Plays]

Mr. Leider: That was 80. It's up to you all to decide what you think is appropriate.

Vice Mayor Mena: Is it fair to say that an enclosed room like this one has very different acoustics than an outdoor space?

Mr. Leider: Totally. So open space is what we call acoustics in the free field, it's very different than inside, because you're getting reflection. This beautiful space is very reverberant, but it's still actually about that level. The other thing is when there is a restaurant, let's say on Miracle Mile, and you are in your home, three blocks away, it's actually going to be low pass filtered. You're not going to hear so much of the high frequency. It's going to be a little bit more basey, sort of like if I put my hand over my mouth.

Commissioner Fors: Question. I think I remember; I have a vague recollection of watching Billy Nye the Science Guy, you hear the lower frequency because the bands are bigger and therefore it can get around the corner, did I imagine that?

Mr. Leider: So low frequencies definitely diffract more, and this is another thing I wanted to speak about briefly is, I think you all are being extremely proactive and any noise legislation, obviously we want businesses to make money, especially post-pandemic, right. We want our restaurants to succeed, and I don't know if you all are like me, but I tip 25 percent, we want to take care of our people, but some legislation needs to be made that sub-woofers should probably turn off after a certain time, in my view.

Commissioner Fors: I think the sub-woofer point is something I hadn't thought of that's valid that perhaps it deserves different treatment. My question is this, you said that a sound ordinance works for one city may not work for another city.

Mr. Leider: Correct.

Commissioner Fors: That a customized tailored sound ordinance for the city. If this ordinance is customized tailored for the site, not only the city, isn't that even better than being customized tailored for the city? What if we have a site where 75 decibels is too much, because of the proximity to apartments. I think that's what I'm trying to grapple with here.

Mr. Leider: Makes sense.

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Commissioner Fors: Why do a one size fits all when we don't have to because of the, I think, I've been trying to think in my head the possible places where music would be played, live music would be played amplified on private property and there's very few because of the private property requirement, like Giralda, it's not Miracle Mile. I wasn't able to immediately think of any other example. Well, you know, maybe Fritz and Franz, right, because that's technically.

Vice Mayor Mena: You get onto public right-of-way on that one.

Commissioner Fors: We may have a situation where we have the luxury of being site specific. If you are in downtown, I don't know where, then you can't do site specific, you know Nashville, where that's what people do over there.

Vice Mayor Mena: Live music.

Commissioner Fors: Play live music, etc., etc., if we have the luxury of doing it customized per site, why even try to make a one size fits all and lower the decibel, let's do it site-by-site. That was my initial thinking.

Vice Mayor Mena: And also, just because you mentioned it a moment ago, can you remind us of the hours of operation and days.

City Attorney Ramos: [Inaudible – mic off]...otherwise approved it shall not exceed 85 but requires approval for in excess of 85. If you really want to make it site-by-site, then maybe...but as far as the hours its Friday between the hours of 5 p.m. and 11, Saturdays between the hours of noon and 11 p.m., and Sundays between the hours...[inaudible].

Assistant City Attorney Ceballos: And if that Monday happens to be a holiday it gets extended...like a Saturday or Sunday.

Commissioner Anderson: Well, I'm going to go back to Miracle Mile, because there was an occasion where the music was extremely loud. You didn't even want to walk in front of the place versus when it was brought down to a reasonable level that it was enjoyable, and that's where I'm trying to hit.

Vice Mayor Mena: Are you talking about the people that were there to enjoy it, or people that were walking by?

Commissioner Anderson: Both.

Vice Mayor Mena: Well, I'm assuming whether people were there or not, I don't know.

Commissioner Anderson: Yes. Yes. People were hearing it and coming. At the time it was blasting, quite frankly, I didn't see anybody sitting outside.

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Vice Mayor Mena: I presume if that's the case they are going to stop blasting it at some point though, right.

Commissioner Anderson: What's the purpose of an ordinance but to prevent this. To prevent us from getting complaints.

Vice Mayor Mena: The purpose of the ordinance is to one, enable them to have entertainment on private property outdoors without it being a special event permit, that's really the main purpose, and then the second purpose, as I mentioned earlier is, and Commissioner Fors just reiterated is to make sure that we have a noise attenuation plan for specific location to avoid as much disruption as we can, that's really it. It's not intended to be everybody do 85 decibels throughout downtown. It's limited to the CBD, it doesn't impact Miracle Mile or Giralda, because that's public right-of-way, and each other's space, you know there may be a smaller space. Staff will work with that location to come up with a plan that makes sense. That may be 70 at times to your request, it may not be.

Commissioner Anderson: The speakers were inside the restaurant projecting out.

Vice Mayor Mena: Was it live music or was it like a DJ?

Commissioner Anderson: I didn't go inside.

Commissioner Fors: If its Miracle Mile, it's probably a DJ, which would not be legal on that location.

Vice Mayor Mena: This does not apply to DJ's.

Assistant City Attorney Ceballos: Just for clarification. If there is currently an establishment on Miracle Mile that's playing music within its boundaries inside of private property, it is not outdoor amplified music, this would neither, this would not address that in any way either allowed or deny it, this doesn't affect that.

City Attorney Ramos: Right. That would be our regular noise ordinance.

Assistant City Attorney Ceballos: Correct.

Commissioner Anderson: Well 85 decibels are what we allow for special events.

Vice Mayor Mena: What's that?

Commissioner Anderson: 85 is what we allow for special events too, okay.

Vice Mayor Mena: So, we are good with 85?

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Commissioner Anderson: So, if we are running special events like the ones on outdoor space, that sound does travel very far. They have that every single night, not every single night, I understand its Friday, Saturday and Sunday. It doesn't seem to make sense to me, because outdoor events are naturally going to require more amplification. So, I understood this to be just for private property not outdoor property, but private property and projecting out, an item I'm learning that you're envisioning outdoor spaces that are not within the building.

Vice Mayor Mena: To be fair, that's literally been the title of the thing the whole time. For you to say you are learning it tonight is a little – he wrote an entire memo about it, I assume you read the proposal and the proposal is very clear that it's for outdoor.

Commissioner Anderson: Well, the properties themselves usually the property line stops inside the building, okay.

Vice Mayor Mena: On what, I'm sorry.

Commissioner Anderson: It stops inside the building; they have courtyards within them. I'm talking about music projecting beyond ten feet outside of the ordinance. So, take a close look at what Matt Thor did, they spent 15 months studying it, think about the sub-woofer issue because that's where all the thumping comes from, that's where most of the noise that bothers people, and I think that that would be a middle ground to make the resident happy.

Mayor Lago: That was my next point. So, Commissioner what do you think would be an appropriate middle ground to bring you to the table in regard to this issue? I am of the belief that we have to find some solution.

Commissioner Anderson: Oh yes.

Mayor Lago: Especially as we come out of the pandemic, we have instituted an extended outdoor dining till January, we are finding different ways to activate those establishments, which again, are coming up in the most difficult times in modern history. So, I'm looking to, again, not give away the house, but I think we need to find some common ground and adopt a piece of legislation that has the necessary teeth so that its enforceable and it can be regulated in a case-by-case, because there are certain instances that need that type of flexibility in regard to the legislation. So, I want to understand what is it that we can do as a Commission as-a-whole to build consensus on this issue and bring it in for a landing hopefully.

Commissioner Anderson: Well, there is a couple of different ways to measure things and I'm just going to throw out some ideas. One is, if the sound comes within 100 feet of a residential area, instead of measuring from the business, measuring from the residential area and shutting down the sub-woofer if it's coming within that 100 foot of a residential area, including the units, the condo units, the apartments, and so forth, because that's where the objection is going to lie; and if it's too

loud for somebody to be able to walk along the street then it's just simply too loud. Now, I don't know if you have some additional suggestions for us, because you are educated in this area?

Mr. Leider: The only thing I would add is, again, I'm not going to make any political statements, but remember NIOSH AND OSHA have very specific guidelines. So, OSHA has the 85-decibel limit for 8 hours, so no American worker is able to experience more than 85 decibels for 8 hours, but then we start bleeding into annoyance. If any of us would hear 85 decibels for 8 hours, there is a high risk of damage to our hearing; 90 decibels is, I think like 6 hours; 95 – 4 hours and so forth. So, you may want to consider that too. But then even below damage to hearing there is the issue of what is annoying to people, and also, let's keep in mind that businesses want to make money.

Assistant City Manager Santamaria: If I may add to the discussion because it was raised. On Miracle Mile we have 85 decibels at 30 feet; on Giralda you have 80 decibels at 30 feet; and for special events we issue a special event permit which typically involves the public right-of-way, its 75 decibels at 100 feet.

Commissioner Anderson: I do think we need to measure what exist when it's annoying, you know, versus when it's not annoying and come back and revisit this within the six-month period.

City Attorney Ramos: So that was added to the ordinance at the sponsor's request that in six months staff bring a report how it's going.

Vice Mayor Mena: We had already said that at the last meeting, right.

Commission Anderson: No, and I understand that. The sub-woofer issue, again, we are trying to prevent this from penetrating residences, that's the whole goal here and not to drive away business, but to attract business. So, the sub-woofer as noted by Commissioner Fors as well as myself and our expert is one of the critical issues as far as the annoyance of it. So, if we shut down the sub-woofers at 9 o'clock, is that going to keep everybody happy?

Vice Mayor Mena: I'm still in the mind that we should see how it goes.

Commissioner Fors: I haven't heard anybody complain yet. I'd like to see how it goes.

Vice Mayor Mena: We may not even get an application in the next six months. I don't know.

Commissioner Fors: We may not get an application.

Commissioner Menendez: I want to comment that unfortunately and it's always been the case that sometimes you could have two different types of music at 85 and one is annoying to one person, the other one is annoying to the other. You could have that song that played, and part of the crowd could go, I love it. You go into rap, and you go heavy metal, it all depends on taste, so that is a subjective that impacts a person's response to music, and if you are dealing with sub-woofers,

woofers a lot of modern music relies heavily on the base. But you go maybe some years earlier, my music, Chicago, or stuff like that, less base. So, you've got to consider that in the discussion.

Commissioner Anderson: Eleven o'clock at night is too late. We have schoolteachers live here, we have people that need to go to bed at an early hour, so that's why I'm suggesting shutting down the sub-woofers at 9 o'clock at night.

Vice Mayor Mena: School teachers on Saturday, that's why it's only the weekends.

Commissioner Anderson: They get up early in the morning and have a routine.

Vice Mayor Mena: Again, there is a lot of blanket sorts of statements being made about – the whole goal of this again is to have a plan for the location implemented. We have the ability to take it back, actually, that's retained in the ordinance, so we continue to have control over it, and we will revisit it in six months depending on how it's going. I don't want to make assumptions about what certain types of professions routines are in the mornings on the weekend. I don't know the answer.

Commissioner Anderson: No assumptions. It's just some of my neighbors that I'm aware of, some of the residents in my area that have complained vehemently about noise in the area. My experiences in the past with and its generally the sub-woofer that beating sound that you hear that penetrates into the residential area. It's not the higher tones, so that's why I'm suggesting sub-woofers off at 9 o'clock, then we shouldn't have any complaints.

Mayor Lago: Is that during the week or is that...

Vice Mayor Mena: There is nothing during the week.

City Attorney Ramos: This only applies to Friday, Saturday and Sunday.

Vice Mayor Mena: This only applies on weekends after business hours.

Mayor Lago: Till 11 o'clock.

Vice Mayor Mena: And it only goes to 11 o'clock, it's very important.

City Attorney Ramos: Sundays till 9.

Mayor Lago: And how aggressive is that ordinance when you compare it to other municipalities, would you happen to have any our existing ordinance to 11 o'clock?

Mr. Leider: I've actually found very few ordinances around the country that address sub-woofers. In my experience there is normally a grievance between hotels and bars and residents that live in the area, that's my experience in South Beach.

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Commissioner Fors: I think you are talking about the 11 p.m.

Mr. Leider: What?

Commissioner Fors: The 11 p.m. in terms of time, how aggressive is that?

Mr. Leider: 11 is typical.

Commissioner Anderson: And what's the typical agreement on the sub-woofers being turned off?

Mr. Leider: They turn off at 11, sorry, at 10. In my experience the agreements I've all seen between hotels on South Beach and neighboring bars is sub-woofers are off at 10.

Commissioner Fors: But is it typical to see sub-woofers mentioned?

Mr. Leider: Yes.

Commissioner Fors: Okay.

Mr. Leider: So not in ordinances, only in live covenants. I don't know how Madam Attorney would put it, but...

Commissioner Fors: I think we can give policy guidance to our staff – is that something, does it have to be addressed in the ordinance, should it be – the way I viewed it is just one of the things that goes into the attenuation plan.

Commissioner Anderson: I think we need to give staff direction and if we say that turning off sub-woofers at 10 o'clock be consistent with what the majority of the agreements are, so now we'll give staff some guidance. I would have not even thought about it had I not talked to this expert.

Commissioner Menendez: Quick question Commissioner Anderson. So, when you have folks, the city staff enforcing the sound, the sub-woofer, under what authority will they be able to tell the private property owner you have to shut down the sub-woofer. They are going to say, where is that written?

Mr. Leider: In the plan.

Commissioner Menendez: In the plan.

Commissioner Fors: It's going to be in the plan, and we all get e-mails from people in the Columbus Center saying, the thump, thump, thump at 10:30 is really killing me, then we come back here, and we say, guess what, sub-woofers end at that location at 9:45 or 10. I think we are not going to agree on everything, so let's just – I'll move it.

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Commissioner Menendez: I'll second.

Commissioner Fors: We'll see how it goes.

Assistant City Attorney Ceballos: Just for purposes of clarification to appease everyone. It should be also noted once again that this is strictly outdoor, live, amplified music. The use of sub-woofers is not prominent in outdoor, live music, it's simply amplification. Sub-woofers are typically more well known for bars and DJ's and things of that nature, so the use, I think will be minimal in this particular type of setting.

Vice Mayor Mena: Exactly. Okay. I think we need to have some public comment before we...

City Clerk Urquia: So, the first person is Gordon Sokoloff.

Dr. Sokoloff: Hello again. I'd like to begin by just saying the acoustics in this room are horrible and I think this Commission ought to do something about it because I've sat up there for the TAB meetings and they really are. When you have people on Zoom, I don't know how you can do it. If you agree, you might want to do that, anyway. I think the main thing with this ordinance is protect the residents. Residents that live in the surrounding areas and that live beyond, I mean 100 feet is nothing when there is something going on at Ponce Park and I live almost a half mile away, it maybe a little more, three-quarters of a mile, I hear stuff and bands playing at Ponce Park when there are events there. There needs to be ground rules that are implemented, because this is Coral Gables, and it is not South Beach. I thought there was going to be a workshop of some sort from the last meeting, I don't know if there is a way to do a workshop, but if there is something to implement along those lines it would be good. I think it's important to note that Miracle Mile is a moving target and if you do eventually approve taller buildings like the Terra Nova building that was going to be a seven-story hotel, he wanted to put a restaurant and I think a bar or something, you have something blasting music on the seventh floor.

Vice Mayor Mena: I recall that coming up at the last meeting and I think we agreed that it wouldn't apply to rooftop.

Dr. Sokoloff: They wouldn't have music up there?

Vice Mayor Mena: This ordinance wouldn't apply to rooftop entertainment.

Dr. Sokoloff: That's all the more reason to have the ordinance then, because if there is a rooftop the music could carry even further, is what I'm thinking.

Vice Mayor Mena: Right. I think the idea was to have something customized to rooftop.

Dr. Sokoloff: Okay. Alright. And I think also a lot of those buildings in the surrounding areas do not have hurricane glass, some of the older buildings certainly don't; and the acoustics that you

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are going to have, you could face sound wars. If you have restaurants or bars across from each other like on Giralda and someone has 75 decibels and someone cranks up, I know Commissioner Fors likes Little Wayne, so he has Little Wayne going on there, just joking.

Commissioner Fors: Not that there is anything wrong with Little Wayne.

Mr. Sokoloff: Just kidding around, just joking around. You have Chicago over here and Little Wayne, you'll find me at the Chicago, listening to Chicago, but that is something to consider where you have sound wars going on and that can even escalate. So, I agree with Commissioner Mena, it's got to be kind of moving ordinance where you kind of see how it goes, but the most important thing to keep in mind is to please protect the residents and changes these speakers. Thank you.

Commissioner Fors: I do remember rooftops, thank you Dr. Sokoloff, I do remember discussing rooftops, but make sure that that is still in there, because I did think that there was, I don't want to single anybody out, but I was thinking where this would apply in Giralda, and there is a rooftop on Giralda.

Vice Mayor Mena: Correct. I think you brought that up last time.

Commissioner Fors: Did I? Alright.

Vice Mayor Mena: If it's not already in there, my recollection is that last time we said it wouldn't apply to rooftop.

Assistant City Attorney Ceballos: If it's not in there, I'll make sure it is.

Commissioner Fors: And I'll move it like that.

City Clerk Urquia: We have additional speakers. Next is Ms. Debra Register.

Ms. Register: [Inaudible]

City Clerk Urquia: Mr. Enrique Bernal.

Mr. Bernal: Good evening Mayor and Commissioners. Thank you for the opportunity to speak.

Mayor Lago: Mr. Bernal good to see you again.

Commissioner Anderson: Some of us have trouble hearing, can you please use the microphone.

Mr. Bernal: Thank you. So, this weekend I took my iPhone and I have an application called DV Pro Meter and I drove back and forth on Miracle Mile, and I measured from a reasonable sound level, according to this meter is 70 decibels is very comfortable. I also measured 87 decibels and it sounded like there was a riot, okay, and what I want to make you aware of is that one of the

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pitfalls about making rules like this is that how are you going to measure it and how are you going to enforce it. Certainly, if I try to enforce it based on my iPhone app the lawyers would love it, because they would challenge where was it calibrated and everything else. Are we prepared to issue the police calibrated sound meters and also how often are you going to measure the sound levels? I drove by the Hilstone, and the sound levels change at different hours. So, the question is, don't make an ordinance that you don't know how to enforce or to measure, because it's worse than not having anything, that's my.

City Attorney Ramos: So, let me address a couple of those points, Mr. Bernal. We do have sound meters, Code has them, Police has them, our current noise ordinance already has some decibel levels so this isn't alien to us and the nice thing about this ordinance is that it's a permit that can be revoked, so that's the best type of enforcement is restaurant owner you can't do this anymore and we pull it away from them.

Commissioner Fors: And the measurement may simply be volume of complaints not even decibels.

Mr. Bernal: And what is the penalty for violating it?

City Attorney Ramos: Removing the permit. It's a permit you get, so if you violate it, we remove your permit.

Mr. Bernal: I see.

Commissioner Fors: Nobody is going to have the right to play music – permits so they can be revoked if it doesn't work out.

Vice Mayor Mena: And again, not to belabor the point, but this will not apply to Miracle Mile or Giralda or the rest of the CBD. In order to have outdoor music on Miracle Mile you effectively have to be on public right-of-way. This is not for public right-of-way. This is for private property in the CBD. So, this is for larger venues that have outdoor private property to be able to have live music for their guests.

City Attorney Ramos: And only on the ground floor.

Mr. Bernal: Thank you very much.

Mayor Lago: So just a quick question. So, this wouldn't apply, for example, to commercial areas on 8th Street that abut a residential neighborhood like a home where they are just playing loud music Saturday and Sunday, as loud as they possibly can, because this happened about two weeks ago, and I got calls from many residents. Code Enforcement went out there, they were having a ribbon-cutting ceremony and at the end of the day it was a nightmare for those residents.

Mr. Bernal: What applies to Miracle Mile then? What is the regulation of sound on Miracle Mile?

Vice Mayor Mena: It has its own ordinance.

Assistant City Attorney Ceballos: Somebody just stated it, I believe it was 75 at 30 feet.

Assistant City Manager Santamaria: No – 75 at 30 feet was a special event. For the Mile 85 decibels at 30 feet and for Giralda 85 decibels at 30 feet. The special events, I'm sorry, I misspoke, is 75 decibels at 100 feet.

Commissioner Menendez: Could I ask a question, I know we are in public comment, so that the community sort of has an idea of an example of a property. Where Books and Books is, for example, next to the museum, has a courtyard, on occasion they have a guitarist or something like that, that would be a perfect example where this ordinance could apply.

City Attorney Ramos: Yes.

Commissioner Menendez: Their courtyard.

Vice Mayor Mena: Bay 13 Brewery over on Alhambra...Plaza, that's a large open space, private.

City Attorney Ramos: There are not that many.

Commissioner Fors: There's not many that would apply to though.

Vice Mayor Mena: Any other comment?

City Clerk Urquia: No. No more comments.

Commissioner Menendez: And you made the motion?

Commissioner Anderson: I just think it lacks clarity here when you are talking about the Central Business District. To the reader, to the resident it would sound like any property within, and if you are playing the music at this level and it projects outside of the – you're playing it from inside, it projects out, it sounds like it would apply. And the definition of the properties that are allowed within the Central Business District. I think there could be a lot more clarity here, because this has been read by many, including myself as applying to any property that is a private property and the sound projects out beyond its borders.

Mayor Lago: So, Commissioner, like I mentioned before, I would love to bring you on board on this issue. So why don't you provide us with a little bit of guidance that would make you feel a little more comfortable and see if that is, if the Vice Mayor will amend his legislation.

Commissioner Fors: Thinking aloud with Commissioner Anderson, it says, to create an exemption for outdoor live amplified music on private property in the Central Business District. That's

location outdoor, type of music, live amplified, not DJ, played where, upon private property, in what area, the Central Business District. Those are the four categories.

Vice Mayor Mena: And last, but maybe most importantly, they have to apply, they have to get a permit from staff, staff will understand how to implement it, and staff will therefore apply a plan that is consistent with the intent of the ordinance. So, it's not that – it's a limited number of properties within the CBD only for live outdoor music on private property. I think staff understands that.

Commissioner Fors: And for me, the two big points are, like you said, the limited number of properties it applies to, and the fact that we are not granting anybody a Constitutional Right to do it. That we can immediately revoke it if we get too many complaints.

Vice Mayor Mena: Correct.

Commissioner Menendez: Can I suggest in the “Whereases,” if it's possible where we can, what was said earlier, whereas this does not apply to Miracle Mile, whereas this doesn't apply to Giralda Plaza, something like that, we take away that little doubt.

City Attorney Ramos: My only concern is that tomorrow, arguably, somebody could demolish a building in one of those places, you know, like – it doesn't apply because of the construct of what it is today, but not because it doesn't apply, its just that there is none that qualify at this time. There could be tomorrow, that's my only fear with doing that. Like would it be at a place that builds like a Books and Books with an interior courtyard, now all of a sudden it applies.

Commissioner Fors: Right. To be clear, I think, not I think, to be clear this does apply to Miracle Mile and Giralda.

Vice Mayor Mena: There are no properties on Miracle Mile for this to apply.

Commissioner Fors: And also, if it did apply to Miracle Mile one or two properties, okay, so what, it's the same deal. We are authorizing it here, why not authorize it there, unless there is some compelling reason why Miracle Mile is going to be different, its far away from any residential.

Commissioner Menendez: I'm just trying to sort of get to where everyone's comfortable, we can move together, move this forward. I think, as discussed earlier by the Mayor and Vice Mayor, there is a need coming out of a pandemic, we are in the middle of the summer, we want to help our businesses thrive and survive and if we can come back in six months, continue working on this. One thing I'd love to know in the six months is, how many complaints specific properties, and once it was investigated were they indeed in violation of the sound or was it just someone complaining. That's another thing that I would love to know coming back in six months.

Vice Mayor Mena: At this point, I would frankly just respectfully call for a vote. Its 8:30, I think there are a lot of people here waiting to discuss another item on the agenda.

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Commissioner Fors: I'll move it with instructions to ensure that it only applies of what was discussed to make sure it made it into the text, that it only applies to ground floor and not to rooftop.

Assistant City Attorney Ceballos: Its right in the title – right at the top of the section it says, at the ground level located in the CBD.

Commissioner Fors: Perfect.

Commissioner Menendez: And coming back its in there at six months, I guess, in the overall legislation, it comes back.

City Attorney Ramos: Yes.

Assistant City Attorney Ceballos: Yes.

Vice Mayor Mena: I'll second.

Mayor Lago: Are there any further comments, Commissioner Anderson before we make a roll call?

Commissioner Anderson: Just that 85 decibels I think is too high.

Mayor Lago: What would make you feel comfortable? Give me a number.

Commissioner Anderson: 75 and it's based upon hearing loss.

Mayor Lago: If we give you a yes vote, can you split the baby at 80.

Commissioner Anderson: I can split the baby at 80.

Mr. Leider: What baby?

[Laughter]

Commissioner Anderson: I'm sorry.

Mr. Leider: That is the weirdest comment I've ever heard in my life – split the baby.

Commissioner Anderson: Its biblical.

Commissioner Menendez: That's what happens when you have night meetings.

Mr. Leider: I'm not a politician, you all have been going at this for 3 hours.

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Vice Mayor Mena: My preference would be to stay with it as drafted and see how it goes in six months.

Commissioner Fors: I'd have to say that's my preference too.

Mayor Lago: Your legislation – perfect. Mr. Clerk can we get a roll call?

Commissioner Menendez: Yes

Commissioner Anderson: No

Commissioner Fors: Yes

Vice Mayor Mena: Yes

Mayor Lago: Yes

(Vote: 4-1)