

City of Coral Gables City Commission Meeting
Agenda Item G-6
March 9, 2021
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Raul Valdes-Fauli
Vice Mayor Vince Lago
Commissioner Pat Keon
Commissioner Michael Mena
Commissioner Jorge Fors

City Staff

City Manager, Peter Iglesias
City Attorney, Miriam Ramos
City Clerk, Billy Urquia
Deputy City Attorney, Cristina Suarez
Deputy Director Development Services, Devin Cejas

Public Speaker(s)

Agenda Item G-6 [Start: 4:30 p.m.]

Discussion regarding outdoor live music on private property in the Central Business District
(Sponsored by Commissioner Mena)

Mayor Valdes-Fauli: G-6.

Commissioner Mena: This was in response, and I don't know Miriam, if Cristina is here can chime in, but I was contacted by Nick Sharp. Nick has several different restaurants throughout the city now. He's been really active on Giralda Plaza. He now has a space, Bay 13 Brewery, over off of Alhambra there, near Douglas, and he said he's been trying to have live music. He has a large outdoor space and he says that it's really very challenging under our current rule to have that type of music at a venue like his, because he has to get a special event permit every time, basically, which comes with fees, it comes with – I think the fees are intended to cover an inspector who is available to check the decibel levels and all this kind of stuff, which I understand makes sense, if you are doing what we would mostly consider a special event, right. But for a restaurant, brewery

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to have to do that if they just want to have some live music on Fridays, or whatever, for happy hour, seems to me like a bit of overkill, and so, I had asked the City Attorney to just kind of look into what other municipalities do in this regard, and to be clear, I'm being specific to, one, the CBD, and two, private property. We are not talking about in the city's right-of-way in the middle of Giralda Plaza or Miracle Mile. We are talking about on private property. And so, I asked the City Attorney to look into that and asked her to kind of go through what – Miriam, if you can give us the background, Cristina, I didn't see you there, on what we currently, sort of lay of the land on the rules that might apply and what you've seen other cities doing. And again, I'm not looking to make a final decision on this issue here today. I want to bring the issue up; I want to get you all thoughts, and then we can try to craft something going forward if there is an appetite for it.

Deputy City Attorney Suarez: So currently, we have a general noise...and specifically to amplified sounds. It can't be as a general matter, played in a manner that would be louder than what's necessary for the enjoyment of those in the room or the outdoor area where its being played. So, having live outdoor music is really not allowed. It would be allowed through the special events process, which as you all know, requires a permit, it requires fees. They must pay for Code Enforcement personnel to be on site and so forth. I understand that your question was really, is there a way to make this more simple and more straightforward. Just by way of further background, currently on Miracle Mile the outdoor noise level amplified music is 85 decibels, on Giralda its 75 decibels, and for some restrictions that's distance from another place playing outdoor music. So, we looked at a couple of other cities. Most cities have a general prohibition similar to ours. One city we saw that they have like an entertainment district and you can apply for a permit and that requires City Council approval. I don't think that's what the intent is here. And even in other cities that we saw that they do allow it in certain context. It seems like the general prohibition or noise standard still apply. And we did see one city that kind of exempts from the special events process, what they call minor outdoor activity, that's limited in accordance with the number of persons attending, that it won't have an impact on traffic or the surrounding neighborhoods, including noise. Now, I don't know how they enforce it or what their noise levels were, because it was not specified, but perhaps one option, if the will of the Commission is there is, to create an exemption in our code for outdoor music on private property for small events. Again, defined according to similar criteria, number of persons, that are expected to be in attendance, could be restrictions as to no stages or platforms, nothing that would otherwise require a building permit, and set specific noise levels for those types of small events, hours of operation, etc.

Commissioner Mena: The idea from my perspective is, not to have a free for all by any stretch of the imagination, but to have an agreed upon set of guidelines that they don't have to come in for a special event permit, that they just know, hey, this type of property on Fridays or Saturdays from this hour to that hour, I can do "X" and its not a big ordeal. Obviously, I think having conservative hours of operation is going to be a big part of this. I think we all understand that. We are probably

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not going to have live music going till midnight or one in the morning, because then you are going to have neighboring condos and stuff that are unhappy with that, but I also think that if you live in a condo in the CBD and you are near restaurants and things like that, that having music until maybe 10 o'clock at night on a Friday or Saturday is reasonable thing to expect. And so, the spirit of this is to try to encourage these types of places to be able to do this. I think one of the few, sort of, positive consequences of some of these lockdowns, things that we have experienced over the last year, I think we've seen that in loosening up a little with some of the restrictions on our commercial properties, they've done some creative things that generally speaking are good things, that haven't been as problematic as people might fear they would be, and I think it's good to encourage businesses to do this kind of thing and to be successful, again, within reason. So that's the goal. I don't have an answer for you today or a precise proposal on how to get there. I just wanted to get a feel from you all on whether you think it's something worth pursuing.

Mayor Valdes-Fauli: I think its something worth pursuing, but we also have to be reasonable and not kill the baby with the bath water. In other words, if you move right across Giralda, some apartment building, you are moving and you're buying a place there, and you know that there is going to be noise. Just like some years ago, the controversy of people that moved to the end of the runway in Miami Airport.

Commissioner Mena: Right.

Mayor Valdes-Fauli: I agree that there should be time limits and there should be decibel limits, but we have to be reasonable that we don't throw out the baby with the bath water.

Commissioner Mena: Listen, I agree. My thought is CBD, right, because I think if you're living in the CBD you probably should have a reasonable expectation of some amount of activity.

Mayor Valdes-Fauli: I would suggest that you – very reasonable – that you chair a committee or a group to listen to merchants, merchants that have or wish to have music and see what they say.

Commissioner Mena: Right.

Commissioner Keon: But I think like the Globe has music every weekend, that's not considered an event. Is it because its inside, is that why?

Commissioner Mena: It is inside, which I think is a key distinction.

Commissioner Keon: But you can still hear it on the street, but that's not considered an event, is it?

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Deputy City Attorney Suarez: I don't know the specifics of their noise levels.

Commissioner Mena: But if you have indoor, I guess the question is, if you have indoor live music and say, open doors or whatever...

Commissioner Keon: The doors are open, but that's not considered an event. You have – Books and Books have music on their patio on weekends.

Commissioner Mena: But here's what happens, if somebody complains, that's happening...

Mayor Valdes-Fauli: Tap 42...

Commissioner Mena: Restriction is so – how does it read again?

Deputy City Attorney Suarez: There is a point where the sound levels would be high enough that they would be considered a violation.

Commissioner Mena: But its not even based on a decibel level in that instance.

Director Cejas: It actually is.

Commissioner Mena: Okay, so what is it?

Director Cejas: There's music or live music happening, taking place within the property.

Commissioner Mena: Inside.

Director Cejas: Inside the property, that is permitted so long as the projection that goes outside of the property doesn't exceed 65.

Commissioner Mena: Got you.

Commissioner Keon: Okay.

Director Cejas: DBA's – and that's measured from 30 feet from...

Commissioner Mena: But that wouldn't apply to outdoor.

Director Cejas: No, that's just general complaint when you are playing music inside.

Commissioner Mena: What governs if its outside?

Director Cejas: If its outside...

Commissioner Mena: On private property, but outside.

Commissioner Keon: On the patio or the terrace of the...

Director Cejas: To Cristina's point, I think there is a prohibition on that. It has to be within the premises.

Commissioner Keon: But it is on the premises.

Commissioner Mena: On the premises, private property, but outdoor.

Director Cejas: If its outdoors its not allowed, it has to be indoors.

Deputy City Attorney Suarez: There are standards that are like, if its unnecessarily loud, louder than necessary for the enjoyment of those in the outdoor party.

Commissioner Mena: Right, that's the standard.

Deputy City Attorney Suarez: Right. So, at some point it becomes a violation, is what I'm trying to say. It would have to be the enforcement officer or police officer, if its after hours making that judgement call.

Commissioner Keon: Right. Do they want music that would be louder than that?

Commissioner Mena: My understanding of what, and I'm only talking about not one, but this not intended to only apply to this one place, but he's just the one that brought it up.

Commissioner Keon: Right.

Commissioner Mena: But my understanding of the – the application to him has been that he's had to apply for the special event.

Deputy City Attorney Suarez: To achieve those higher levels, special event levels.

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Commissioner Keon: But how loud does he want it to be?

Commissioner Mena: He doesn't want to have to apply for special event every week, right.

Commissioner Keon: And I don't think he should have to, but I think the decibel levels that you're talking about is being acceptable are probably the decibel levels that he's at. I've been there when they play and its not real loud. Now, I know the people in the condos have complained.

Commissioner Mena: I'm no expert on it, on the decibel levels. What he told me was that the current level, like he's kind of limited to like a violin quartet, I believe was his quote.

Commissioner Keon: Maybe we need to listen to...

Deputy City Attorney Suarez: My understanding is that even the special event permit levels, which are higher than normal...

Commissioner Mena: Are those the ones that are 75 or 85?

Deputy City Attorney Suarez: 75 for him because he's adjacent to a resident.

Commissioner Mena: Correct.

City Manager Iglesias: I do believe that anytime you have a decibel level you need monitoring, and if you are trying to avoid monitoring that can be a problem. What is not considered noise? What is not considered noise is 60 decibels in residential, 65 decibels in non-residential. You cannot avoid noise. You have an air conditioning chiller unit in a building, it provides noise. So, there is a background noise or ten decibels above your background noise. So, you cannot control noise. You cannot control noise in the woods, you cannot control noise. If we have a noise threshold then how do, we monitor that noise threshold? There has to be some type of monitoring.

Commissioner Mena: That's a fair question and we need to work through those issues. All I'm saying is from my perspective, I'm willing to be a little more flexible on the decibel lever per say, as long as there are strict hours of operation and you limit it to the CBD, right.

Deputy City Attorney Suarez: And private property.

Commissioner Keon: I don't know. I don't know if....

Commissioner Mena: Whether its 75, 85 or 90, like I'm not going to pretend to know the answer to that today, but we can work through that. But long story short, I just wanted to get you guys general perspective. I'll try to work with staff to come back with something a little more developed, but I just wanted to get your general input on it just to see if there was an appetite for it.

Commissioner Fors: I have an appetite for it, for the record.

Commissioner Keon: I agree. Yes. I have a question about the enforcement. There is one place on Giralda that is exceedingly loud, exceedingly loud, and I know the neighboring restaurant has asked them repeatedly to turn it down, and I know that in their comments or whatever, they sent me a list of when people have rated the restaurant, they like it, they think its great, but they complain about the amount of noise coming from the next-door neighbor. They've tried to work with them. They haven't been able to work with them. I know the police have gone there. I know they've told them to turn it down. I know the turn it down temporarily and it goes right back up. It is deafening to sit outside next to that other restaurant. You can't talk to the person across the table from you, because of the level of noise coming from one of those restaurants.

Mayor Valdes-Fauli: It's a new restaurant.

Commissioner Keon: It is the newer restaurant. Whoever deals with the Mile, you know, I mean deals with the CBD, you need to go by there. They need to walk down Giralda Plaza, the police, whoever at those hours doing Code Enforcement, and walk down Giralda and listen to it, and if its deafening, somebody needs to walk in and tell them to turn it down. You shouldn't have to have property owners fighting with one another, because...

Commissioner Mena: I don't disagree with the point and I haven't heard that specific situation, so I'm not going to judge that, but I would say, like two days ago, there was an article in the Miami Herald about how Giralda is thriving and if you've been there at night lately it really is.

Commissioner Keon: And the restaurant in question is the one that's having trouble because of the noise next to them.

Commissioner Mena: So they say.

Commissioner Keon: I've been there. I've been there twice; you can't talk to the person across the table.

Commissioner Mena: Is there another restaurant on the other side?

Commissioner Keon: It's the restaurant that borders them.

Commissioner Fors: I have heard complaints from some of the restaurant owners on Giralda regarding what is likely the same restaurant Commissioner Keon is talking about.

Mayor Valdes-Fauli: The eastern side of the block.

Commissioner Keon: The southern side of the block, I guess. I think it's the southern side. You know what it is – I don't want to get in the middle of their issue. I just wish somebody would walk down there because there have been a number of complaints about it. Just send somebody down there to deal with it.

Director Cejas: I'll reach out and speak to Chief Hudak, after 7 pm is mainly the police officers that are on duty that respond to phone calls, Code Enforcement is not...so we work well together.

Commissioner Keon: But you know as long as you are patrolling the downtown, maybe those officers can be asked to take a walk through Giralda.

Director Cejas: I'll speak to Chief Hudak and see what we can do.

Commissioner Keon: Thank you.

Chief Hudak: Commissioner, I'm on the call and we've addressed – we've paid a visit to that restaurant and another one. They are in the middle of the two waring faction restaurants, so we are on top of that already. As we generate reports, its part of our daily check-off of the assignments that are downtown.

Commissioner Keon: It's been problematic, no?

Chief Hudak: Pardon me?

Mayor Valdes-Fauli: Thank you very much.