

MINUTES OF THE LAKE MARY CITY COMMISSION WORK SESSION held February 16, 2012, 6:30 P.M., Lake Mary City Commission Chambers, 100 North Country Club Road, Lake Mary, Florida.

The work session was called to order by Mayor David Mealor at 6:25 P.M.

Mayor David Mealor
Deputy Mayor Gary Brender
Commissioner George Duryea
Commissioner Allan Plank
Commissioner Jo Ann Lucarelli – Late

Jackie Sova, City Manager
Carol Foster, City Clerk
Dianne Holloway, Finance Director
John Omana, Community Dev. Dir.
Gary Schindler, City Planner
Bruce Paster, Public Works Director
Bryan Nipe, Parks & Recreation Dir.
Gunnar Smith, Events Center Manager
Colin Morgan, Deputy Police Chief
Craig Haun, Fire Chief
Mary Campbell, Deputy City Clerk

I. Item for Discussion

A. Noise issue adjacent to the Events Center

Ms. Sova said Mr. Rob Dove requested a meeting with the Commission to discuss noise and possible solutions for 146 West Lake Mary Avenue near the Events Center. We have attached a lot of information and the Quietly Making Noise report from nearly two years ago. We have three presentations: Colin Morgan will go through some information, Bryan Nipe will go through a timeline, and Bruce Paster will talk about a berm that might be a possible solution.

Deputy Chief Morgan came forward and talked about the police response to the Dove residence of 146 West Lake Mary Avenue and their responses over the last six to seven years to that location. We began taking statistical data on our responses from 2008 and we have run that data continuously. We received complaints earlier than that but those complaints were from other residents (Lisa York who lived next door to Mr. Dove).

Deputy Chief Morgan said in 2008 we responded to 20 complaints to the Dove home in reference to some type of noise violation which ultimately was directed to the Events Center. Each time we responded to those complaints we had learned some information from our previous encounters with the York residence of things we should do to make sure we do it right each time to see if there are any violations. One of the first things we did was get a quality meter to read the noise and find out what the ambient levels of those noises are and to weigh that at the property line to see if that noise is above our city statute for noise.

Deputy Chief Morgan said in 2009 we received 7 complaints from Mr. Dove or the residents of 146 (West Lake Mary Avenue). In 2010 we received 20 complaints, in 2011 we received zero complaints, and in 2012 to date we received 2 complaints. (He noted when he wrote the memo there was one but now are two.) Thirty-two of those complaints were bass related. The bass from the Events Center was too loud for Mr. Dove, he was feeling it, or there was some cause for concern that there was a bass and he would relay that in the information he gave us, and we would respond. The measurements pick up noise but does not pick up feeling. It tells us what that level is. Some of the Commission may have felt bass from cars going by when they have their bass up so high you can feel it. On most of those occasions we went to the Events Center and asked them to look at their bass and see if there was the ability to turn the bass down. He said he wasn't speaking for the Events Center but they had already taken action by trying to turn down the volume.

Deputy Chief Morgan said 14 of the complaints were from loud music or people screaming and yelling. One was for fireworks which was not coming from the Events Center, 1 was for music from another person's home or a party going on in the neighborhood, and 1 was due to Mr. Dove observing musical equipment being unloaded at the Events Center. That is included because it came from his home.

Deputy Chief Morgan said 10 of the complaints came from 8:00 P.M. to 9:00 P.M.; 17 from 9:00 P.M. to 10:00 P.M.; 13 from 10:00 P.M. to 11:00 P.M.; and 3 complaints 11:00 P.M. and after. The importance of those time breakdowns is because our noise ordinance begins at 10:00 P.M. as a quiet time. The sensitive zone in a residential neighborhood starts at Friday night at 10:00 and runs through the weekend until Sunday at 10:00. That is always a sensitive time zone which means our decibel meter reading can never go above 55. That gives us the threshold of what we are looking at each time we respond to Mr. Dove's house: what is the time, what is the day of the week, and what is the ambient noise level we are picking up on our reader that is calibrated and certified.

Deputy Chief Morgan said upon our police responses, 2 times out of the total 49 times the officers were in Mr. Dove's home and they felt vibration from the bass so there was some issue there. On the other times there was no discernible bass that they could feel, although there were many times that Mr. Dove did not invite the officers in. He said he included in the package a complete breakdown of what was going on at the Dove house.

Deputy Mayor Morgan showed a police video from January 23, 2012, at 10:00 P.M.

Deputy Mayor Brender asked if the camera was pointed at the Events Center. Deputy Chief Morgan said the officer was wearing a Scorpion camera and was facing the Events Center and getting the recorder out to start measuring the noise.

Deputy Chief Morgan showed a police video from February 12, 2012, at 6:00 P.M. showing the back of Mr. Dove's residence where the reading was 46 to 49, and the officers going into the Events Center and talking with personnel.

Commissioner Lucarelli arrived at this time (6:35 P.M.).

Deputy Chief Morgan said this is what they do on a considerable number of occasions. We know we don't always please Mr. Dove and the residents but we go by what the law says and what we are instructed to do. We try to keep the noise down to a certain level and try to make sure there is not a violation. Once we've done that we go to the Events Center and try not to be interruptive there because people are having weddings and they don't want police cars there. We do make contact and let them know there is a complaint. Many times Mr. Dove has called directly to the Events Center and the police didn't get involved. That was mostly in 2011 and is why we showed no complaints.

Ms. Sova said Bryan (Nipe) is new but has worked with Gunnar (Smith) and will go through a historical perspective.

Bryan Nipe, Parks & Recreation Director, came forward and gave a perspective from the Events Center as the management. The management of the Events Center is the Parks & Recreation Department. We don't get nearly the complaints directly to the Events Center as the police do but the officers do contact us when issues go over what the decibel level is per ordinance.

Mr. Nipe said from the Parks & Recreation Department's perspective, we have been approached by and received numerous complaints from the Doves dating back to before their home was completed in July 2008. These complaints were related to noise issues stemming from children playing or loud music.

Mr. Nipe said at the direction of the City Manager, this department took a proactive approach to mitigate the situation by installing bamboo as a visual buffer, hiring an acoustics consultant, and creating stringent policies on the levels of music based on recommendation and lowering those levels below recommendation.

Mr. Nipe said in April 2010 the City purchased a handheld sound meter and the Events Center employee checks decibel levels inside and outside every half hour during the event and keeps the DJ music level in compliance with accepted levels.

Mr. Nipe said the following is an abridged timeline for further information. February 1, 2008, the Lake Mary Events Center opens. July 2008, Rob and Kim Dove move into their home near the Events Center. December 17, 2009, e-mail from the Doves to John Litton (prior City Manager) regarding noise complaints to the City. January 20, 2010, a meeting occurred between Mr. Dove, Mr. Dove's father, Bill Carrico (prior Parks & Recreation Director), Bruce Paster, Public Works Director, and John Litton to discuss those noise complaints. On January 28, 2010, Mr. Litton notifies Mr. Dove that the City will research hiring a sound engineer to determine acceptable noise levels at the Lake

Mary Events Center. On the same day (January 28, 2010) Quietly Making Noise, LLC submitted a proposal to do noise control/consulting at the Lake Mary Events Center. Quietly Making Noise was a company suggested by Mr. Dove and found to be a top acoustical consultant through staff research.

Mr. Nipe said on March 5, 2010, Quietly Making Noise submits their report to the City recommending allowable decibel levels inside and outside the Lake Mary Events Center. He noted the report was in the packets. March 26, 2010, Lake Mary Events Center staff purchases a handheld sound meter similar to what the police officers have and keeps a record of testing both inside and outside for every event with music with the policy of keeping the decibel levels at or below recommended levels. June 22, 2010, the Doves send an e-mail claiming the Lake Mary Police Department had been to their house the last three nights and confirmed they could hear the music from the Events Center. July 6, 2010, following continued weekend complaints by the Doves, staff reduced the maximum indoor reading levels to 95 decibel C. This was down from the consultant recommendation of 104 decibels. January 2012, Mr. Rob Dove visited our skate park on two consecutive days making complaints to staff regarding Lake Mary Events Center noise. Documented accounts of these encounters and every other encounter that we have had specific to Lake Mary Events Centers are in e-mail and can be provided. Also attached in the documents are the sound engineer report, timeline, and e-mail history.

Mr. Sova said one of the other alternatives we looked at was a sound dampening berm and Bruce (Paster) and Mr. Nipe worked on that.

Commissioner Duryea said we haven't even gotten close to the levels that aren't acceptable.

Ms. Sova said that was correct.

Commissioner Duryea questioned if they were going to do something about something that's really not a problem.

Ms. Sova said this is just a proposal and is not something that we have sketched out to do. It is just a proposal for another method of sound deadening.

Mr. Paster said Public Works was asked to look at a possible berm solution. We looked at it and did some costing. A berm was talked about over the last several years. Put in some type of barrier between the Events Center and the Dove property. We did a conceptual look and there are a couple of options in the packets. One is an earth berm approximately 12 to 15 feet high because the grade slopes in that area. Twelve-foot high would be about the height of the eaves of the Dove property. If it were just to be dirt it may be \$80,000 and we would try to locate it in such a way to not destroy existing vegetation. There are a lot of trees.

Mr. Paster said so it wouldn't take up so much land we looked at concrete terraces and timber terraces. Using concrete including landscaping would be \$180,000. Using timber, which would not last as long and would need a lot more maintenance, would be \$100,000. Sound reacts similar to water and flows. We are not certain this would even create the type of dampening we are looking for. On highway walls, it's only effective on the home directly behind the wall. If you go across the street from that home, they really get no effect from the wall because the sound goes over the wall and reaches to the other side. We looked at this to get some costs, where it may be possible, what it would look like but we are not certain it would have much effect.

Mayor Mealor asked Mr. Dove to come forward. He stated we are meeting tonight at the request of Mr. Dove. He asked if that was correct.

Rob Dove, 146 West Lake Mary Avenue, came forward and answered affirmatively. He said he would like to add to the statements already made. In 2010 we had officers from Lake Mary Law Enforcement come to our home repeatedly. We've got noise machines in our home that try to drown out this noise. This noise is exactly what any of you can imagine when you're sitting at a red light with a car five cars behind you with a bass. It's maddening. It will drive you crazy. We've had two prior meetings to the existing meeting with my dad and I, John Litton, Bruce (Paster), and Bill Carrico with his staff. He said Bill Carrico assured him he would do everything in his power to discuss with the commissioners and the powers that be to prevent the noise.

Mr. Dove said at the time we had a three-year-old girl. If any of you have children of your own, you can imagine that car in front of your home with the noise continuing. Regardless of what this decibel meter says, we called and brought these officers into our home. Many times we didn't bring them into our home because we wanted to make sure when we called Lake Mary Police into our home that they could verify that they could hear the noise. They came in and verified the noise. He asked these officers of the law if that was considered a nuisance. He said the officers said let's get the meter. He asked the officers if they could hear the noise. Many times Lake Mary Police Officers responded to our home, took that decibel meter out, and they measured 55 to 57 decibels. The noise ordinance of this city used to read that any rational person that could justify and have a police officer verify a noise complaint then it was a noise complaint. This city changed that to read 65 decibels.

Mr. Dove said any law enforcement person that has been in our home can hear this noise. No one was arrested and I have a police report on file demanding whoever is repeatedly violating our right to peace and quiet be prosecuted to the fullest extent of the law. Their response was they didn't know who to arrest. They are in my house verifying they can hear the noise. Who is responsible for this? The video recording on the 12th, I don't know when dispatch got the second call. We pulled up to our home after spending an afternoon at my parents' and if I held up a telephone to all of you in this room to listen to them exchanging vows. This is every Sunday, this is every event they have out there. We are rational people. I called dispatch and said I forgot at 6:00 everyone goes back inside.

Mr. Dove said if you guys want video proof of what's going on over there, I will assure you that I will have it. Make no mistake that this is something we have patiently tolerated for four years of our life and it has ruined our life in our home. You can present all the information you want, you can make it look like there's no noise going on, and that is a lie. I can assure you if a video proof is what you need, you will have it. If you need documentation of law enforcement coming to verify there is a noise complaint, you will have it. I looked up the sound engineer. I've taken every attempt at resolving this. I am so infuriated right now. None of you in this room would tolerate what we have been exposed to in our home. That guy at the red light, you can't get away from him for a minute and you are ready to leave. Imagine four hours of that. My wife is on medication for the stress that this induces. She comes home to relax. We have left our home. We try not to go home. If we see cars in the Events Center parking lot, it is so disheartening. We are hypersensitive to it. We go home and we can hear it. We are all paid by the same taxpayers. We have decided to not throw all of you under the bus and we have tolerated this long enough. If you want proof, I will give you proof. A month from now you will have no contest. The wall we've discussed. We parked a dump truck in front of our house and it actually worked. We didn't get a follow up call.

Mayor Mealor said we were out there monitoring. We know you (Mr. Dove) didn't hear the noise because we were out there. It did make a difference. We specifically followed up and asked you if you heard the noise and you said no.

Mr. Dove said he would extend an open invitation for any one of you (the Commission). You give me your telephone number and when we can hear the noise, I will invite you to come over as I have and got no response. I'll invite any of you to come into our home when there is an event over there and you tell me you would tolerate that.

Kim Dove, 146 West Lake Mary Avenue, came forward. She thanked the Commission for the opportunity to speak. We didn't realize exactly what this meeting was going to entail. I don't think it was necessary for the City to put together a defense. She made a public records request for everything that was presented tonight and also the officer's memo that was prepared and the actual readings at the Events Center.

Ms. Dove said it was said there were 20 complaints since 2008. In 2011 there were no complaints. We don't want to complain. If we can't hear anything, we don't call. There is a simple solution to this problem and that's what is so frustrating and disappointing that the City can say who can come in and who can cater at the Events Center. If you look at the website it says that is there a noise ordinance, if you go inside you should be okay. If you are going to have control over who is coming in and catering and you know that we have a concern and a problem, why don't you care? We spoke two years ago. We sat down with Bill Carrico and staff at the Events Center and we said we just want to work this out. Commissioner (Duryea), I understand if we don't have a problem we don't want to spend the money and you can't hear it, well there are some things you can't see with your eyes. While you may have the technical definition of what is noise

and what is pollution, you come to my house and I will show you. Like my husband said when you are sitting in a car and you're listening to that bass it is just infuriating.

Ms. Dove said we love our house and we're not going anywhere. We are going to do what we need to do because we are going to be comfortable. Your home is your palace, it's a place where you go and want to be comfortable and that's what it's going to be and we are going to stay in Lake Mary and we are going to stay in that house. We want to work with the City to come up with some procedures. I don't know if there's a staff change but I spoke to someone at the Events Center. We are reasonable people. We are trying to work this out. We are making every effort to work with staff and police. We didn't invite the police in because we were trying to get my daughter to sleep. She is in now in kindergarten but was in pre-school at the time we had the big problem. I would like to see those readings. It was 65 and wasn't 104. I invite all of you to look at that report again. I want to remind everyone here that in that report they were able to reproduce the problem. It is a problem that the City is causing us and we want a solution.

Deputy Mayor Brender said for many years he was on the Sanford Airport Noise Abatement Committee and shared the Doves' frustration. When you have planes flying over your head, not one of them will ever exceed a 55 or 60 decibel level which is by law a reading. You can't have a law that says "it's sort of loud". It has to be a law that says X and if you cross the line then it is illegal. He said he understood. It is disturbing regardless of the level because of the consistency of it. He said he was at a loss to figure out how we handle this, particularly in view of what Ms. Dove said that they are planning to stay there. We want to do whatever we can because we don't want the Events Center interrupted by police action every time there is a noise problem. We need to come up with a solution.

Commissioner Duryea said it is not so much a question of Mr. Dove but our engineers. This is not a problem that is inherent to the City of Lake Mary. Somebody somewhere has solved this problem and thought it didn't have to do with noise but vibration. The vibration is set up by the speakers and is transmitting to Mr. Dove's house and is resonating. There has got to be somebody who has done something to mitigate this problem. He asked Mr. Paster to look into that. Somebody has solved this problem he was sure.

Mr. Paster said as part of the report done by the sound engineers, in the meetings with them there were some solutions brought up. It involved the home itself similar to hotels at airports. Somehow you are able to sleep at an airport. The way they do that is insulation in the walls and new drywall. You have to pull off the drywall, put in new insulation and put up thicker drywall, put in double-paned windows and it is shoring up the house. There are products out there and people are doing that type of work. You could make a house soundproof. You could do the same to the Events Center but the Events Center is all glass and would mean closing off the view of the whole Events Center.

Mayor Mealor asked if the City had received complaints from any other residents other than the Doves related to the noise from the Events Center.

Ms. Sova said not since Ms. York moved.

Mayor Mealor said Commissioner Duryea brought up a good point. He said he was sorry we are here tonight at the request of Mr. Dove. He said when we met with Mr. Dove we made a good faith effort to try to make some modifications and thought we had some success and thought there was a way to go. This is a work session and can't vote but we can set direction to staff. It is very difficult to ask the Doves to be patient. We have a new City Manager and new Parks & Recreation Director. We've seen some possible solutions with some cost estimates. He asked the Commission if they had a problem directing the City Manager to meet with staff to look at solutions beyond just the berm and three scenarios that were presented.

There were no objections from the Board.

Deputy Mayor Brender said there are some active sound generation devices which puts out a reverse frequency of what it hears. There are possibilities.

Mayor Mealor said the sound barrier issue is something we probably want to take off the table based on the other information we've had and the feedback.

Deputy Mayor Brender said he wasn't talking about the sound meter but was talking about a device that actually generates a reverse sound of what it is receiving.

Commissioner Duryea said he didn't think it was sound but vibration.

Mr. Dove said we just want help.

Mayor Mealor said this Board is directing the City Manager to work with staff and the Dove family. Retrofitting the Dove home may not be the most viable option but are probably some out there. We will keep the Doves informed. We are sorry we are at this point this evening but we have consensus from this Board that we will look at options. It may be something the City does to its own property as opposed to Mr. Dove's.

There being no further business, the work session adjourned at 7:02 P.M.