



# TOWN OF PALM BEACH

## Town Clerk's Office

### REPORT OF THE ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING HELD ON MAY 23, 2023

#### **I. CALL TO ORDER AND ROLL CALL**

The Ordinances, Rules and Standards Committee meeting of May 23, 2023 was called to order at 9:30 a.m. On roll call, all committee members were found to be present.

#### **II. PLEDGE OF ALLEGIANCE**

Chair Araskog led the Pledge of Allegiance.

#### **III. APPROVAL OF AGENDA**

**Motion was made by Member Cooney and seconded by Chair Araskog to approve the agenda. On roll call, the Motion passed unanimously.**

#### **IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE**

Charlot Taylor, 2165 and 2160 Ibis Isle Road stated that she would like the Town to rescind or amend the Ordinance regarding bird feeding in Town. She commented that residents were shocked that there is a \$250 per day fine for this American pastime. She suggested placing birdfeeders in various areas around Town. Chair Araskog informed her that the Council must authorize the Committee to proceed with this issue. She suggested that Ms. Taylor send an email with the request to the Town Council. Ben Alma, Support Services Manager stated that the feeding of birds and cats is not allowed on public property.

#### **V. REGULAR AGENDA**

##### **A. Old Business**

1. Further Review of Chapter 42 of the Town Code, Article V - Noise  
*Paul Alber, Lieutenant, Police Dept.*

Chair Araskog gave a brief historical overview regarding the Noise issue.

Paul Alber, Lieutenant, PD, referred to the Town Attorney's memo and stated that most of the noise issues were related to cars and there is a new law that is enforceable which is being used by the Police Dept. regarding any noise issues.

Chair Araskog requested an update to the information in the Town Attorney's letter dated April 4, 2022.

Lt. Alber explained the differences when individuals were exercising their first amendment rights to free speech such as during protests/demonstrations and stated that the Ordinance comes into play regarding noise from car radios in the residential/commercial areas. Lt. Alber suggested reducing the noise level regulations in Town to be similar to other municipalities. He also explained that officers wrote citations based on the Florida State Statutes and not the Town Ordinance.

There was discussion regarding the noise levels, commercial/residential areas, and amplified music. Chair Araskog requested to have our Town's current noise Ordinance at the next meeting.

Lt. Alber recommended reducing the maximum noise level for commercial and residential areas. He suggested that this issue could be included in the zoning review that is being considered for the entire Town. Chair Araskog suggested not including noise in the zoning review.

There was a discussion on creating better definitions like the Seminole County Ordinance provides and to use this ordinance to update our Noise Ordinance. Additionally, there was an explanation from Lt. Alber regarding dB (C) and discussion about whether the ordinance dB(C) would be accepted in the Courts. The dB(C) readings involve the bass level sounds that were discussed by the ORS Committee previously. Lieutenant Alber did not think it had been used in Seminole County yet to cite people. There was concern by Chair Araskog that using Seminole's new ordinance which had not been tested in the court system could bring legal issues to the Town. Member Cooney suggested that staff try to find and provide to the Committee the information from the consultant used by Seminole County when drafting their ordinance.

Additionally, there was a discussion regarding the Court case that affirmed readings of decimal levels from 100 feet and the Court denying measurements from 25 feet and whether the Town's ordinance requiring a reading from 50 feet would stand up in Court.

In discussing the recommendation by staff to use the Seminole County Ordinance to change our Town Ordinance, Chair Araskog also requested that our Town attorney or a lawyer who specializes on noise ordinances advise the committee on whether changes to the Ordinance could trigger first amendment or other legal issues. It was asked that Lieutenant Alber meet with our Town attorney or a specialist before the Committee revisits the Noise Ordinance and that an attorney be present. Additionally, the committee asked for an update to the legal document written two years ago [Dec. 29, 2021] from Jones Foster to reflect any new laws.

Responding to a question from Member Cooney in regard to the breakdown of noise complaints in the backup and whether these were complaints that involved citations, Lt. Alber stated that the noise complaints were pulled from the Police Department's CAD system and were not necessarily cited. Chair Araskog requested a breakdown of the areas where the complaints were reported.

*Mr. Alma explained that a member of the Code Enforcement Board was present and requested that he leave the room before any further discussion.*

Manager Alma spoke regarding two businesses (Taboo and Meat Market) where the locations were grandfathered as cabarets. Chair Araskog suggested having the Town Attorney opine on the grandfathering issue before any changes to the Noise Ordinance. Member Cooney requested that he be given a decibel reading demonstration by Manager Alma's staff.

## **B. New Business**

### **1. Discussion Regarding the use of Motorized Vehicles/Devices (eBikes, electric scooters, etc.) on Sidewalks and in the Business District of Palm Beach**

Chair Araskog began the discussion by referring to the various complaints received regarding this issue. She highlighted that a lot of the violations occurred on the Bike Trail. She discussed the issues of bicycles on sidewalks on Worth Avenue and the complaints she had received there too.

Lt. Alber explained that the Town has an Ordinance that prohibits motorized vehicles on the Bike Trail such as e-Bikes and electric scooters except personal mobility vehicles and an Ordinance that prohibits bicycle riding and skateboarding on the sidewalks in the business district. He stated it would be extremely difficult to enforce an extension of the prohibition to all sidewalks and other areas in Town. Member Cooney stated most of the complaints he received were regarding the Lake Trail. Lt. Alber stated that the statistics showed that the officers patrol that area several times per day, but they did not

encounter the violations being reported.

Manager Alma suggested having the Town Attorney include the use of motorized medical equipment in the Ordinance as the department had received a complaint of someone using a motorized wheelchair on the Lake Trail which is legal under ADA. Manager Alma stated that the Florida Dept. of Transportation (FDOT) would like to add bike lanes to some streets in Town.

Martin Klein, 1060 N. Ocean Boulevard spoke regarding the dangers to pedestrians by allowing bicycles on the Lake Trail.

Lt. Alber stated that the speed readers were re-calibrated to read the low speeds on the Lake Trail. The statistics show that the data does not align with the perception of the speed on the trail. Chair Araskog suggested lowering the speed limit from 10 to 5 miles per hour. Lt. Alber stated that enforcement at that low level would be almost impossible as the speed readers or radar could not read that low mileage.

Lt. Alber summarized that the information requested such as case law on noise ordinances and expert opinion regarding the Ordinance's success in a court of law should be supplied by the Town Attorney. He also stated that a general prohibition of motorized devices on all sidewalks in Town was not recommended, but we could have further discussion on this topic at the next meeting.

## **VI. ANY OTHER MATTERS**

There were none.

## **VII. ADJOURNMENT**

**Motion was made by Member Cooney and seconded by Chair Araskog to adjourn the Ordinances, Rules and Standards committee meeting of May 23, 2023, at 10:30 AM. On roll call, the Motion passed unanimously.**

APPROVED:

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Julie Araskog, Chair

ATTEST:

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Pat Gayle-Gordon, Deputy Town Clerk

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Date