January 31, 2014

5:00 p.m.

**Meeting Minutes for the January 29, 2014 Metro and Urban Parks Ad Hoc Committee**

**Topic:** Review of proposed legislation 2013-676 and amendments concerning sound levels and fines at Metropolitan Park during ticketed events.

**Location:** Don Davis Room, 1st Floor City Hall.

**In Attendance:** CM E. Denise Lee, CM Don Redman; CM Lori Boyer; CM Dr. Johnny Gaffney; James Richardson, EPB; Paige Johnston, OGC; Stephen Durden, OGC; Lyn Corley, citizen Harbor Oaks; Max Marbut, Daily Record; Ginny Myrick, citizen St. Nicholas; Janice Billy, CAO; John Shellhorn, EQD; Blane Johnson, EQD; Jim Bailey, Daily Record; Sally Pettegrew, Jacksonville Symphony Orchestra; Allison Adams, ECA District 5; Tonisha Landry-Gaines, Special Events; Daryl Joseph, Parks & Recreation; Kelley Boree, Parks & Recreation; Mike Yokan, promoter; Aundra Wallace, DIA; Margo Klosterman, Mayor’s Office; Stan Johnson, ECA District 13; and Dan Macdonald, ECA District 8.

CM Bill Gulliford had an excused absence.

Chair E. Denise Lee called the meeting to order at 10:38 a.m. The minutes of the December 9, 2013 meeting were accepted 4-0.

Paige Johnston reported that since the last Ad Hoc Committee the Administration met with promoter Mike Yokan to come up with acceptable noise measurement protocol and a fine schedule. (See attached Memorandum).

Blane Johnson of EQD told the committee that those doing the measurements work for him. New meters, purchased from the Metropolitan Park Trust Fund, will measure an average dB sound level for a 5-minute duration every 20 minutes. CM Lori Boyer asked if the monitoring during the 5 minutes would include the time after one song ends and another begins. Johnson confirmed that the measurement is a continual 5 minute period and it would include time between songs if that occurs. CM Don Redman was concerned that this sort of approach will not offer readings that truly show the sound levels during the music portion of a sound test.

Promoter Mike Yokan said this issue was addressed in previous meetings with the Administration. He said that most songs are 3 to 5 minutes in length. Tonisha Landry-Gaines said that often in a concert setting, a single song may last longer than the recorded version.

CM Redman then asked about the bass levels, which he said causes the most concern among residents across the river. Mr. Johnson said the meters can single out bass levels. Mr. Yokan added that at the Big Ticket concert only one band created troublesome bass levels.

CM Dr. Johnny Gaffney asked Mr. Yokan if he believed the proposed testing method was fair. Mr. Yokan said he believes it is fair. CM Gaffney asked if the data can be stored to create a database. Mr. Johnson said it can be stored on computers at the EQD. According to the proposed legislation (2013-676), the promoter pays for the costs of monitoring.

So far, two concert events have been booked for 2014 – Welcome to Rockville and Funkfest. There was a short discussion about the levels proposed in the memorandum but CM Lee countered that legislation needs to be introduced as soon as possible. There is no required monitoring for these two events. CM Redman wanted the events monitored. At an estimated cost of $1000 per day, it was agreed that the city would pay for the monitoring from the Metropolitan Park Trust Fund.

CM Boyer made a motion that if a promoter had already entered into a contract with the City for an event at Metro Park prior to the enactment of the legislation, they have the option to amend their contract to include terms consistent with the legislation (which would include them paying for monitoring costs and being subject to the noise measurement and fine structure language from the Administration’s memo).  If a promoter with an existing contract chooses not to amend their existing contract, they would be subject to existing EPB Rule 4 and Chapter 368 and liable for fines incurred for offsite violations under the existing methods for determining violations in the Ordinance Code. It passed 4-0.

CM Lee made a motion to appropriate money for sound monitoring at events that have existing contracts when the promoter does not agree to amend the contract. It passed 4-0.

CM Boyer made a motion to remove the sunset provisions in 2013-676. It passed 4-0.

CM Boyer asked Mr. Yokan to state for the record that he supports 2013-676 as amended and that when it is brought before City Council that he will not offer any objects to it. He started he would support the bill.

CM Lee made a motion to adopt 2013-676 as amended and it passed 4-0.

Stephen Durden spoke about his preliminary findings on his opinion on drafting a profanity ordinance as requested by CM Redman. Mr. Durden said profanity can be regulated; however drafting legislation that would stand up in court would be difficult. Many similar laws have been found to be unconstitutional. Passing such an ordinance could place the city at a high risk of having to litigate the ordinance in court. It would not be impossible to defend but precedent shows courts would be unlikely to side with the city.

CM Redman wanted to know why FCC regulations that ban profanity on broadcast stations can’t apply to a performer amplifying his voice on a microphone. Mr. Durden said FCC regulations do not apply in the case of a concert. CM Redman said there are signs in our parks that prohibit profanity. Mr. Durden admitted that is the case but such prohibitions cannot be upheld. CM Redman asked Mr. Yokan is any other city had ever prosecuted a promoter for profanity spoken into a microphone. Mr. Yokan was unaware of any such case.

CM Lee thanked all involved in the committee for their work.

The meeting was adjourned at 11:53 a.m.

Minutes compiled by Dan Macdonald, ECA District 8.

Included:

Minutes

Attendance Sheet

Meeting Notice

Agenda

Audio CD of meeting

Noise Measurement and Fines at Metropolitan Park Memorandum