

LIVE MUSIC TASK FORCE

On January 31, 2008 the Austin City Council passed a resolution to create the 15 member Live Music Task Force (LMTF). The LMTF convened for the first time on March 24, 2008 and divided into four committees -- Venues, Entertainment Districts, Musician Services, and Sound Enforcement & Control.

Committee members include: Paul Oveisi (Chair), Brandon Aghamalian, Scott Trainer, Jill George, Sandra Kirk, Bobby Garza, Harold McMillian, Don Pitts, David Sullivan, Rose Reyes, Adrian Quesada, Alex Gonzales, Charles Attal, James Moody, and Steve Wertheimer.

The four committees met regularly throughout 2008, conducted public hearings, listened to testimony, met with stakeholders, consulted with City staff, reviewed best practices, issued surveys, and ultimately developed a broad set of recommendations.

These recommendations were tentatively approved by the full task force on October 13, 2008. The LMTF will meet again on October 29, 2008 to accept public testimony.

The initial recommendations are respectfully presented herein as follows:

CENTRAL RECOMMENDATION:

1. Establish a central **Music Department (MD)** within the City of Austin government structure.
 - a. **Structure.** The new MD should report directly to an appropriate Assistant City Manger. The Music Department (MD) should be independent of the existing the Cultural Arts division, in part because of its focus on the 'for profit' nature and activity of live music and the role it plays in economic development.
 - b. **Responsibilities.** The LMTF recommends the MD focus on seven (7) primary functions:
 - i. **Implement** the LMTF recommendations.
 - ii. **Develop** the live music industry via a three-pronged strategy:
 1. Recruit industry components outside of Austin, with a specific focus on:
 - a. Attracting more traditional industry elements such as record labels, talent, publicity, booking agents, management, distribution, etc., and
 - b. Attracting future industry elements such as digital, gaming, film, TV, etc.
 2. Incubate new industry components in Austin (i.e. create and finance a local environment that fosters new talent and assets), and

3. Foster existing components (i.e. support the current and existing local industry).
- iii. **Facilitate** communication between all music industry stakeholders, including, but not limited to, the City, venues, law enforcement, and neighborhoods.
- iv. **Advise** policymakers on issues that affect the live music industry.
- v. **Manage** the live music issues that intersect with appropriate City departments and functions, with a special focus on Parks, PACE, Watershed, Planning and Zoning, and APD, and coordinate with local venues and city neighborhoods on all live music issues.
 1. The MD will insure that live music venues incorporate qualified sound engineers without placing an undue burden on the venue.
- vi. **Implement and collect** all city fees associated with operating a live music venue.
- vii. **Market** and develop a “2009 & Beyond - Live Music in Austin” marketing plan (in conjunction with the Austin Convention and Visitors Bureau), that specifically develops a campaign to focuses on:
 - a. Tourists (working with ACVB) to directly promote Austin’s live music industry, and
 - b. Local residents by:
 - i. Encouraging local citizens to attend live music venues more often,
 - ii. Promoting live music venues in Austin,
 - iii. Educating local entrepreneurs and local business owners about the value of investing in live music venues, and
 - iv. Encouraging citizens to volunteer with the local music community.

2. Interim Plan

- a. Until the creation of the MD is complete, the City should appoint an individual (or team), *outside* of the umbrella of Cultural Arts, who will be tasked with handling the responsibilities outlined in these reports. This position should be filled by someone who has a strong understanding of the history of Austin live

music and experience working with music industry and for-profit development professionals.

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LIVE MUSIC VENUES SUBCOMMITTEE RECOMMENDATIONS

1. Charge the Music Department with adopting a **definition** of a “Live Music Venue” (LMV) in Austin that:
 - a. is dynamic enough to reflect changing styles and open-ended enough to include all categories of venues, but
 - b. does not include “bad apples” who tersely display music without consideration of neighborhoods, without proper gear, staff, etc, and
 - c. takes into consideration the following elements:
 - i. Frequency of live music
 - ii. Payment of musicians either through a cover charge or a guarantee
 - iii. Consistent investment in advertising
 - iv. Employment of a sound engineer, and
 - v. Capital investment in professional equipment (proper staging, lighting, PA system, etc.)
2. Qualify “LMV” (as defined by the City) for consideration of the following incentives:
 - a. Minimized sales/property tax burdens (based on feasibility) (Note: more resources and study are necessary to determine the necessity of and the appropriate levels for reduction and/or abatement of taxes);
 - b. Minimized energy costs (working with the MD and Austin Energy) with an emphasis on discounts for:
 - i. enhancing soundproofing, and
 - ii. becoming more energy efficient (including energy efficiency efforts and solar power options, etc).
 - c. Minimized City fees (as possible) imposed on LMVs for issues related to:
 - i. General operations
 - ii. Sound dampening
 - iii. Venue renovations
 - iv. Parking
 - v. Safety upgrades, and
 - vi. Sound/lighting/weather structures.
 - d. Building incentive programs for the creation of new LMVs including incentives for:
 - i. Density bonuses
 - ii. Public Improvement Districts
 - iii. Tax Increment Reinvestment Zones, and

- iv. 380 agreements.
- 3. Create a comprehensive parking plan (in coordination with venues, artists, and consumers) that enhances existing parking structures, incentivizes future parking opportunities, and takes into consideration public transportation options that would alleviate existing parking burdens.
- 4. Authorize permit expeditors to fast-track permit requests from LMV, and
- 5. Fund sound control improvements at LMVs and in public places designed to reduce or eliminate outdoor sound projection.

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MUSICIAN SERVICES SUBCOMMITTEE RECOMMENDATIONS

1. LOW COST HEALTH INSURANCE & HEALTH CARE

- a. The City should offer help in connecting musicians with insurance needs to the Health Alliance for Austin Musicians (HAAM). This may be carried out through information on the CoA Website, or through the physical information clearinghouse presented among our other suggestions, or via help on a 311 call line.
- b. If there are barriers to using HAAM due to the income eligibility requirements or classification as a non-musician, then the City should facilitate access to other means of insurance. For example, the new Central Texas Regional Health Coverage Project is developing low-cost Health Coverage Plans for small Texas employers (2 to 50 employees). See <http://www.healthcarecentraltexas.com/>.
- c. The City should offer financial support to HAAM and the SIMS Foundation both for outreach and service delivery.
- d. The centralized database proposed elsewhere in this report should hold all the information needed for individuals to apply for insurance benefits and other social services.
- e. Research the possibility of creating a physical health facility for musicians similar to that in New Orleans, using the pooled resources of public and private entities such as the Health District, private hospitals, charitable organizations, music industry members, and music festivals.
- f. If the region moves to make a major investment in a medical school, part of its planning could include creating a satellite facility for indigent or working poor families, including members of the music community.

2. AFFORDABLE HOUSING

- a. Add points for artist/musician housing to the scoring matrix used for affordable housing projects.
- b. Offer incentives to builders to preserve or replace existing musician housing stock whenever possible as redevelopment occurs.
- c. Offer density bonuses to developers to create musicians housing stock.
- d. Develop ordinances to promote more affordable housing in duplexes, cottages, cohousing projects, and cooperatives.

3. PARKING

- a. Parking lot owners may be interested in donating empty evening parking spaces in their garages to musicians and their crews. In exchange, the owners could promote

themselves by advertising as, for example, a "proud sponsor of the Austin Music Foundation" or "proud sponsor of HAAM," where AMF or HAAM or the City's ACVB actually brokers the spaces out to musicians. (Suggested by Mike Clark-Madison, who works at Tate Austin Hahn.)

- b. The City could offer parking vouchers for musicians in entertainment district areas. The City could contract for a number of parking spaces in public lots, offer reserved spaces on City property (e.g. City Hall, the old Municipal Building, One Texas Center), or reserve public on-street parking spaces for working musicians who are performing.
- c. Work with venue owners to identify areas needed for short-term loading and unloading, which can then be preserved as no-parking areas, excepting delivery vehicles and tagged musicians' vehicles. The MD should be charged with conducting a study (working with appropriate stakeholders) regarding loading zones and musician parking, and issue a report to Council.
- d. APD, Public Works, and the Downtown Austin Alliance should conduct an examination of policies to direct enforcement at only the most serious problems of illegal parking such as blocking busy rights of way and compromising public safety, and they should affect changes to other less serious rules so as to better allow business to proceed.

4. BUSINESS SERVICES

a. Job Training:

- i. Quantify the various types of "job training" resources available within the Austin metro area with the objective of determining what is free, what is not free, the variety, and how the music community is informed of these resources and other pertinent issues.
- ii. Austin Music Foundation is finding great success in its list of programs, and any increased coordination between government/non-profits/for-profit groups would greatly benefit musicians.
- iii. Raising more awareness of job training availability via a centralized posting board. (i.e., Music 311 on the internet would be beneficial.)
- iv. Encourage legal assistance for the music community.

b. Centralized Information

- i. Create a centralized information clearinghouse of links and resources for music industry professionals.

c. Booking/Management/Professional Services

- i. Facilitate communication between government/non-profits/for-profit groups and music industry professionals; partner with AMF to insure a comprehensive

list of local agents and managers who are interested in helping; encourage workshops and seminars on booking, management and client services.

d. Loans for Business, Education

- i. Educate the music community on business and educational loan resources available within the Austin metro area; develop funding opportunities through grants or discounts to “certified musicians”.

e. Miscellaneous

- i. Raise and promote public awareness of financial etiquette such as musician tipping, paying cover charges, and buying music.
- ii. Develop a program in which “card carrying” musicians would qualify for price breaks at participating studios and retail outlets, as well as parking benefits.
- iii. Educate venue managers regarding ethical business practices for hiring, treating, and paying performers.
- iv. Educate the business community on the benefits of hiring music community professionals.
- v. Develop public service announcements to encourage the public to participate in the Austin live music community.
- vi. Develop rules or policies to boost the number of small venues - e.g., "house concerts."
- vii. Study the infrastructure needs for the local live music industry in terms of electricity, water and waste-water, building structural integrity, rainwater run-off, Internet and bandwidth availability, etc.
- viii. Provide detailed information on the live music scene to hotels, visitors' centers, Capital Metro buses, cabs, tour companies, and convention groups that make it easy to navigate the various entertainment districts.
- ix. Support more resources for the ACVB to insure that more Austin visitors (e.g., convention goers and vacationers) know where live music can be found.
- x. Study the business infrastructure needs for individual musicians and bands such as booking agencies, record labels, advertising, marketing, etc.

SOUND ENFORCEMENT & CONTROL SUBCOMMITTEE RECOMMENDATIONS

1. **CITY STAFF POSITION.** Creation of a staff (or contract) position within the MD responsible for managing outdoor live music sound control and attenuation.
 - a. Structure. The individual selected to fill the position should report to the newly created Music Department and should, ostensibly, possess substantial experience and expertise in live music engineering, acoustics, and sound attenuation.
 - b. Responsibilities:
 - i. Train and qualify sound engineers working at Austin's outdoor live music venues; and
 - ii. Work with outdoor venues and neighborhoods to explore ways to attenuate sound.
 - iii. Establish and implement "sound engineer certification program" which will teach and certify sound engineers employed by outdoor music venues.
 - iv. Explore the most appropriate ways to measure music frequencies (as opposed to the current method of measuring decibel levels).
2. **SOUND ENGINEERS AT OUTDOOR LMVs.** Recommend amending the appropriate ordinances to require all outdoor live music venues offering live, outdoor amplified music to utilize (i.e. hire or otherwise arrange for the services of) a city-approved sound engineer. The ordinance should include penalties that require venues to stop music performances if a certified engineer is not on site during performances of amplified music.
3. **CONSTRUCTION STANDARDS, INCENTIVES & BEST PRACTICES**
 - a. Recommend appropriate City departments and Austin Energy jointly explore and develop construction methods that reduce and improve sound attenuation at outdoor venues.
 - b. Recommend the City require all future CBD commercial venues to adhere to enhanced construction methods that include improving acoustical insulation and soundproofing.
 - c. Recommend adding sound control to the density bonus list to entice developers in the CBD to construct in a manner that better insulates residential projects from nearby venues.
 - d. Recommend requiring future CBD residential projects to notify all tenants, before execution of lease or sale or property, of all the nearby live music venues and ask tenants to sign an acknowledgement of the nearby venues and to acknowledge that live music might be heard within a residence given their proximity.

4. **CITY ASSISTANCE FOR PUBLIC IMPROVEMENTS.** Recommend City Council budget and appropriate adequate monies for public improvements that will improve soundproofing and sound attenuation at outdoor venues that experience higher than normal complaints and violations. For example, if the construction of an additional wall located in the public right of way or in a privately granted easement improves sound attenuation in a neighborhood, the city should budget for the construction of such a public improvement.
5. **COMPLAINT PROCESS, MANAGEMENT, ENFORCEMENT & RESPONSE**
 - a. Move the sound complaint process and the overall sound control and enforcement responsibilities from the Police Department to PACE code enforcement department.
 - b. All sound complaints phoned to the city (whether 911 or 311 or otherwise) should be routed to PACE (i.e. a "Sound Complaint" clearinghouse within PACE) which will enable PACE to manage all sounds complaints.
 - c. PACE staff should:
 - i. Be well equipped and well trained (i.e. adequately staffed and familiar with the noise ordinance);
 - ii. Be available to answer and respond to calls 24 hours a day;
 - iii. Be clearly authorized to respond to all sound complaints swiftly and should be enabled to dispatch an immediate and appropriate response so complaints receive immediate attention and resolution;
 - iv. Work to validate (or invalidate) sound complaints;
 - v. Collect data and document the nature of all sound complaints, document suspected violators, and document geographic areas of all sound complaints, and track offending venues;
 - vi. Sound compliant data shall be shared with the Watershed Protection Development Sound Review Department to ensure proper issuing of sound permits.
6. **DATA & REPORTING.** Recommend City Council instruct the City Manager to require an annual "Sound Complaint" report that, among other things:
 - a. Documents information regarding ALL complaints (music and non-music oriented sound complaints) received by PACE;
 - b. Identifies geographic areas that experience higher complaint volumes;
 - c. Identifies neighborhoods and venues that experience conflict;
 - d. Documents average response time to a sound complaint; and

- e. Makes recommendations for improvements from PACE and the Music Department.
7. **PROHIBITION OF AUDIBLE NON-LIVE MUSIC.** Recommend the City amend appropriate ordinances to prohibit outdoor non-live music (i.e. pre-recorded music, radios, television, etc.) from being audible to a single family residential property, including penalties for violation.
8. **ADMINISTRATIVE PERMIT PROCESS FOR TEMPORARY LIVE MUSIC SITES.** Recommend properties whose primary business is not live music related be required to obtain an administrative permit for infrequent special outdoor music events. Specifically,
- a. The administrative permits for "Temporary Change of Use" and "Amplified Sound" can only be issued for nine (9) occurrences per year per site.
 - b. University Neighborhood Overlay (UNO) will have a different number of occurrences (PACE will recommend the final number of permits for this area of the city).
 - c. Recommend transferring the administrative permit process from the Watershed Protection and Review Department to the Music Department.
9. **ZONING.** Recommend adding "Outdoor Live Music" as a
- a. Permitted accessory use in base zoning districts P, CBD, DMU, CS, CS1; and
 - b. Conditional use in zoning district GR.
 - c. At the expiration of current amplified outdoor music venue permits:
 - i. Existing venues and businesses zoned P, CBD, DMU, CS, or CS1 will continue offering outdoor live music as a legal accessory using the following current and proposed restrictions, and will no longer be required to apply for administrative permits.
 - ii. Existing venues and business properties **not** zoned P, CBD, DMU, CS, or CS1 that desire to offer live outdoor music have two options:
 - 1. Apply for temporary administrative permits under the infrequent use option (up to 9 per year), or
 - 2. Apply for zoning changes that then trigger the existing public process and involve Neighborhood notification, the Planning Commission recommendation, and ultimately Council approval (note: the task force strongly recommends the normal fee including site plan fees be waived for this process).
10. **SANCTIONS** Recommend the City adopt new penalties for outdoor live music venues that fall outside of the Downtown Entertainment District, that are within 500 feet of SF-6 (or more restrictive zoning), and that are cited for violating the current City sound ordinances as follows:

- a. After three "**violations**" (i.e. citations) in a year issued by PACE, temporarily prohibit live music at outdoor venues (duration of ban to be determined by MD with details that provide for a cure and/or a probationary period); and
- b. After three separate but "**validated complaints**" (i.e. "validated" being a process defined and adopted by PACE and MD) require city facilitated mediation between neighborhoods and venues that is:
 - i. Facilitated through the Music Department;
 - ii. Enforced by PACE;
 - iii. Includes notification to all residences within 500 feet of venue; and
 - iv. Includes terms which sanction venues that fail to attend mediation or fail to adhere to mediation agreements (i.e. temporary prohibition of amplified live music).

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ENTERTAINMENT DISTRICTS SUBCOMMITTEE RECOMMENDATIONS

1. Council should begin the process of creating entertainment districts throughout the City where live music is encouraged.
2. Council should proceed with the creation of a large, centrally located entertainment district that roughly mirrors the current central business district, with certain exceptions for established neighborhoods that are primarily residential. This Downtown Entertainment District should include the following elements:
 - a. Consideration of relevant sound ordinances
 - b. Same provisions with respect to sound levels and hours of operation as are currently outlined in our two entertainment districts
 - c. Loading and unloading zones throughout the entertainment district similar to what is available along 6th Street
 - d. Parking plan for musicians and venue staff
 - e. Designated busking areas and changes in applicable ordinances to allow busking
 - f. Density bonuses that provide affordable live/work space for musicians
 - g. Incentives for creation of a program for soundproofing and sound attenuation or enhancement of equipment
 - h. Establishment of a clearinghouse of musician information
 - i. Marketing strategies for districts
 - j. Fast-tracking through the development process for buildings that will either house live music or are retrofitting buildings to become or enhance live music venue
 - k. Encourage retail music businesses as well as industry representation
 - l. If located in a Tax Increment Financing (TIF) Zone or Public Improvement District (PID), utilize some portions of the increment to enhance live music or relocate live music venues being displaced by development
 - m. Work with Capital Metro to establish transit hubs inside entertainment districts, as well as centrally located taxi stands
 - n. Different staffing focus/increased training for Downtown Tactical Area Command
 - o. Considerations for pedestrian interaction
3. Council should create signage for music venues inside the Downtown Entertainment District.

4. Incorporate the plans for a Downtown Entertainment District into the overall Downtown Plan that is currently being contemplated.
5. Council should consider utilizing existing parking structures in downtown super district to create affordable “after dark rates” for musicians and venue staff.
6. Council should consider negotiating enhanced nighttime routes with Capitol Metro that would service the entire Downtown Entertainment District.
7. Council should alternatively consider reducing parking costs at city-owned parking facilities in the Downtown Entertainment District.
8. Council should consider the creation of a busking program in Entertainment Districts, and modifying applicable ordinances accordingly (Busking is the practice of performing in public places outside of traditional venues).
9. Council should consider and establish a process for the creation of entertainment district nodes, or satellite districts, that encourage live music but do not contain all of the benefits of the Downtown Entertainment District. Development of these districts should take into account their proximity to residential neighborhoods, and also the following points.
 - a. Significant concentration of live music venues or historical significance to Austin's music scene for designation
 - b. Geographically compact
 - c. Consideration of sound ordinance with an emphasis on enhancement of provisions
 - d. Designated busking areas and changes in applicable ordinances to allow busking
 - e. Density bonuses that provide affordable live/work space for musicians
 - f. Emphasis on utilizing Mixed Use locations for live music
 - g. Marketing strategies for districts and satellites/nodes
 - h. Compatibility with the heritage of the districts
 - i. Encourage retail music businesses as well as industry representation
 - j. If located in a TIF or PID, utilize some portions of the increment to enhance live music or relocate live music venues being displaced by development.
 - k. Loading and unloading zones throughout the entertainment district
 - l. Parking plan for musicians and venue staff

- m. Transit hubs and centrally located taxi stands within the district, and considerations for pedestrian interaction
- 10. Council should consider extending the benefits included within the entertainment district satellites/nodes to live music venues within those boundaries that have not been found in violation of the noise ordinance more than three times in the past 6 months.
- 11. In creating an entertainment district satellite/node, Council should consider creating signage for music venues inside these districts.
- 12. In creating an entertainment district satellite/node, Council should consider previous districts and policies for creation with an eye toward overlap and partnership with existing designations.
- 13. Council should consider hiring a planner to implement these entertainment districts that has a background in cultural planning or experience with the establishment of cultural districts as well as entertainment districts.

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