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## *Laws That Are Out of Tune*

The clash between musical tradition and residents of New Orleans is being played out through ordinances and the City Council.

By Larry Blumenfeld

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People participate in a jazz funeral for trumpeter Lionel Ferbos.

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Last year in New Orleans, the calls and responses of a storied musical tradition were often drowned out by back-and-forth arguments over ordinances. At stake are a number of things, not least a culture that the city's Convention & Visitors Bureau website correctly claims "bubbles up from the streets."

This past January, dozens of musicians led a crowd of hundreds into New Orleans's City Council chamber. "We're here to bury the noise ordinance," announced a trombonist before raising his instrument. The protest took musical form—a dirgelike rendition of the hymn "Just a Closer Walk With Thee," a standard at any local jazz funeral.

In April, one day before the annual Jazz & Heritage Festival opened, council chambers were again full. The lobbying regarding decibel levels and regulations of musical expression revealed growing public rifts. Some speakers warned of threats to musicians' livelihoods and the infringement of rights. Others sought protection from nuisances, particularly the bombast of amplified music along one stretch of Bourbon Street, in the French Quarter. One contentious item was Section 66-205, which states: "It shall be unlawful for any person to play musical instruments on public rights-of-way between the hours of 8:00 p.m. and 9:00 a.m." Never mind that tourists arrive with the precise expectation of hearing music played on streets at night. Or that a city attorney had already declared that curfew unconstitutional. (The mayor has promised that this will no longer be enforced. However, it remains on the books.)

In late October, the council concluded public comments about a new Comprehensive Zoning Ordinance—a sweeping document to replace the existing ordinance that, according to the City Planning Commission's website, "is an obstacle to creating the city of the future." By revisiting zoning, the council highlights one deep irony in a city known for music: The existing legislation essentially prohibits live entertainment in New Orleans save for spots either grandfathered in or specially designated as exceptions. One speaker equated a proposed citywide allowance for limited music in restaurants with making "all neighborhoods de facto entertainment districts."

Others feared steering live music mostly to designated arts-and-culture zones, and away from the neighborhood clubs that have long nurtured a locally bred scene. As David Freedman, the general manager of listener-supported WWOZ-FM (self-proclaimed “Guardians of the Groove”), said: “An unintended consequence may be the death of spontaneous culture in New Orleans. Some may think this is good for tourism and development, but it is not good for the distinct musical traditions at the core of our identity.”

If there’s a culture war going on in New Orleans, that’s hardly news. According to historian Freddi Williams Evans’s book “Congo Square: African Roots in New Orleans,” Congo Square—where enslaved Africans danced and drummed on Sundays—was codified by an 1817 city ordinance restricting such activities to a single spot. A 1996 photograph that ran in the Times-Picayune newspaper, of a protest march, showed a teenage snare drummer wearing a sign: “I Was Arrested for Playing Music.”

The past decade lends heightened context to current debate. In the years since the 2005 flood resulting from levee failures that followed Hurricane Katrina, tensions surrounding culture led to clashes. In 2007, a consortium of Social Aid and Pleasure Clubs defeated, in federal court on First Amendment grounds, jacked-up city permit fees for their weekly brass-band-led second-line parades; later that year, police busted up a memorial procession for a beloved tuba player, igniting a fight over who owns the streets. This narrative unfolded despite the city’s pervasive use of these traditions to rekindle a tourism business that, in 2013, hosted more than nine million visitors who spent more than \$6 billion.

Now, as a yet undefined “new” New Orleans rubs up against whatever is left of the old one, brass bands have been shut down on their customary street corners. Music clubs have increasingly been hit with lawsuits and visited by the police responding to phoned-in complaints. A revival of rarely enforced ordinances has met a fresh groundswell of activism. All this has happened in the context of swift gentrification of neighborhoods such as Tremé, long a hothouse for indigenous culture.

In any city, gentrification raises questions: What happens when those who build upon cultural cachet don’t want that culture next door? But even long-standing residents of the city’s historic neighborhoods have had a sometimes uneasy coexistence with the city’s largely organic culture, and their legitimate quality-of-life expectations (noise, crowds, and such) beg for clear and enforceable rules. Yet in New Orleans such concerns are underscored by an exceptional truth—a functional jazz culture that is, for many, elemental to daily life and social cohesion.

The Disneyfication of New Orleans that people warned of in 2005 was supposed to be quick and dramatic. But, as Alex Rawls, a veteran local music critic, told me: “The danger is not like that. If you take your hands off the wheel and let business interests rule, that sort of thing happens more gradually, almost without people noticing.”

People have noticed. The TV cameras won’t descend upon New Orleans until August, marking a decade since Katrina. Yet those with a stake in the city’s culture should watch closely in the coming months, when the city council plans to rule on all the above issues.

New Orleans loves to relive its past. Yet simply because its culture has long occupied embattled space doesn’t mean that must forever be the case. Despite sometimes-heated rhetoric, those advocating for enlightened policies have begun speaking less like combatants than like willing partners, or as activists completing a mission. Jordan Hirsch, who formerly headed the nonprofit Sweet Home New Orleans, now works with a nascent organization billed as a “cultural continuity conservancy.” “Where we were once focused on simply getting musicians home,” he said, “the job now is to create equitable policies that assure a sustainable cultural community.”

During a news conference at last year’s Jazz & Heritage Festival, New Orleans Mayor Mitch Landrieu told me, “there is a way to organize culture without killing it.”

This year, the New Orleans City Council has the chance to craft policies that nurture culture and

remove it from the cross hairs of controversy. If it can't strike the right balance, that next brass band may not find its audience on a streetcorner. And that city like no other may start to sound and feel a bit more like every place else.

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