

CITY OF NORWALK

ORDINANCE COMMITTEE

NOVEMBER 28, 2018

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Doug Hempstead; Michael Corsello; Chris Yerinides; Beth Siegelbaum; Doug Stern

STAFF: Attorney Brian Candela, Corporation Counsel; Eric Zwirling, noise consultant (via speakerphone)

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:05pm, introducing the committee members as well as members of the Common Counsel who were there to hear public comment on the noise ordinance. Those members were Mr. Burnett, Ms. Smyth, and Mr. Tsiranides they were joined later by Mr. Dumas.

Attorney Candela read a statement, noting that the committee had been made aware of tech issue which lead to the agenda not being on the City website. It had been there as recently as November 27th. He said that he anticipated that there will be more public meetings in the future, and that any public participation is open and can continue at upcoming meetings.

2. PUBLIC HEARING (possible action on):

There was no public hearing.

3. PUBLIC HEARING DISCUSSION

There was no discussion.

4. PUBLIC COMMENT

Mr. Candela dialed in noise consultant Eric Zwirling at 7:05.

Ms. Mendoza opened the public comment, noting that people have three minutes to address toe committee, with a thirty second notice to wrap their comments.

Paul Braschi 12 Split Rock Road

Mr. Braschi said that he lived across the mars from City Carting and other industrial companies, and that there is a lot of noise. He noted two parts of the draft ordinance that would well server the residence of Village Creek. First, the ordinance calls for ambient noise construction equipment, but he would like to see the ordinance call for white noise equipment, so that he and his neighbors aren't disturbed. Secondly, he addressed the timing exemption currently in place noting that currently there can be 25-30 vehicles running at the same time. The removal of this exemption will increase the quality of life in Village Creek.

Luigi DiMeglio

Mr. DiMeglio said he was happy to hear about the revisions to the ordinance draft. He noted that his former neighbor, Premier Firewood, sometimes logged decibels of 83 at 9:30 in the morning. He noted that the white noise requirement will help. He also said that in the future businesses should not be allowed to move into residential neighborhoods, citing pollutants, dust, odors, etc.

He acknowledged that the businesses were zoned 100 years ago, but that things have changed, and he and his neighbors have called police and have seen no change.

Sylvia Hall—14 Lubrano Place

Ms. Hall stated that she lives next to City Carting and understood that there was a rule in place that they could not run trucks until 7am, but she has seen them running at 3:30am. She noted that she has double paned windows, but is awoken to diesel trucks running, and it is affecting her sleep. She also said it is affecting her neighbors.

Leonard Braman—Attorney with Watts and Rosen

Mr. Braman said he represents Our House restaurant at 112 Washington street. He thanked the committee for tackling the noise issue, noting that there was much good in the draft ordinance, and that he had suggestions for improvement.

Mr. Braman said that the draft ordinance correction recognizes that Washington street is a regional draw and an economic engine that makes the city a good place to work and visit. So, he suggested that the limits for sound levels on Washington street need clear guidance, and that the first two of three columns in the table make sense, but that the third novel category is redundant, and that it penalizes the bars for neighbors who may have inadequate insulation. He also suggested the floor immediately above the bars should be zoned for business. He noted that Thursday night is a big night, with people starting their weekends, so would like to see the enforcement hours pushed from 10pm-11pm.

Isaac Camoro – owner, Our House Restaurant

Mr. Camoro, the owner of Our House restaurant said that they are trying to be part of the community and bring money into Norwalk. He said that the noise level in the draft ordinance was the same noise level as in a library. He noted that young people are moving to Norwalk for the life here. He said he wants to be part of the community and that he is here to stay.

Vernon Howard — 110 Washington St.

Mr. Howard thanked the committee for its work. He said that Table Three as it is is doable. He noted a noise study from the business below him and that noise levels were at or below the proposed levels. He further said that the enforcement time change for weekends makes sense, but that Thursday night is a work night and he wouldn't like to see that changed.

Diane Lauricella — Environmental Consultant

Ms. Lauricella thanked the committee for looking at noise, noting that it was a long time coming. She said she agreed with many of the speakers who came before her and had some suggestions. She

suggested confirming that there would be a mechanism for record keeping for the people tasked with enforcement. She also noted that with many neighborhoods having suffered for years, she would like to see this finished quickly.

She said she would like to see the Fire or Zoning departments trained in using the instrumentation, asking that the committee confirm there is funding now for Mr. Zwirling to train them. She also said that there should be an education program in place. And final, she would like the committee to eventually consider dumpsters and dumpster pickup, some of which is grandfathered and happens at 3am which is detrimental to health.

Gato Iceman – restaurant owner on Washington Street.

Mr. Iceman said that he and his staff do their best to comply with current regulations. He suggested that the floors immediately above bars be zoned commercial, so the noise doesn't disturb residents.

Hector Correa – owner, Saltwater Restaurant

Mr. Correa stated that Saltwater has lots of events, and that they need events in the winter to maintain their business. He said the business owners need clear guidance. They want their patrons to have fun but don't want to make the neighbors unhappy.

Teresa Peterson – 32 Dock Road

Ms. Peterson stated that she lives in Village Creek in close proximity to industrial areas. She said the community is happy with many of the proposed changes and that they will help with quality of life in the community. She noted that she would like the committee to explore white noise backup. The white noise instead of back up beepers makes a difference. She also noted that enforcement is an issue, since many times they call about infractions it is during a police shift change and it is difficult for police to get to them.

Ed Camacho—North Main St at the corner if Washington

Mr. Camacho said that his apartment is right across the street from the train tracks, and that the owner of his building installed soundproof windows which changed the quality of his life. He said that while he hasn't read the ordinance, he believes landlords on Washington street could be incentivized to install the soundproof windows.

Point of order: Ms. Lauricella asked how to get in touch with Mr. Zwirling with other comments.

Attorney Candela said that he would pass on all comments sent through his office.

Broderick Sawyer – Fire Marshall

Fire Marshall Sawyer said that the kind of decibel testing described in the ordinance is not what the department usually do. He said that they generally test indoors, in a controlled circumstance. He also addressed the question of whether establishments on Washington Street should add more soundproofing, citing the fire at the Station Nightclub, which was caused by soundproofing.

He does not believe the Fire Department is the right department to enforce the ordinance.

Mr. Corsello asked if the department would run into manpower issues if they were tasked with enforcement.

Marshall Sawyer said that if a call came in at night, he'd have to send an engine and four firefighters, which would make noise. And if there were a fire call, they'd have to leave the scene immediately.

Tom Kulhawik – Chief of Police

Chief Kulhawik told the committee that the proposed changes will make it easier to enforce noise regulations, and that the Police Department expects to be the enforcing body.

He addressed the public comment on the lack of response to noise complaints during shift changes, noting that it could be an issue, and that the department will have to look into that.

Ms. Melendez asked about the meters needed for enforcement and asked if there was an investment necessary.

Chief Kulhawik said that Mr. Zwirling recommended equipment and will offer training. He noted that the ordinance was based on complaints, not random testing. He said that giving the bar owners educational sound readings and the opportunity to amend the problem would be a good change to the ordinance.

Mr. Hempstead asked about the scope of budget for equipment, training and manpower.

Chief Kulhawik said they would train supervisors first, and that the police department would draw up a proposed budget, noting that about 20 supervisors would be trained to begin with.

Michael Wrinn, Assistant Director, Planning and Zoning

Mr. Wrinn noted that this ordinance removes some of the issues that the zoning governs now, like open v. closed windows, and that that is acceptable to the department as long as the levels in the ordinance are met.

Mr. Hempstead asked if there was anything that would prohibit zoning from a two-tiered system for permitting, e.g., live entertainment v. not live entertainment. Mr. Wrinn noted that is a building code issue.

Mr. Wrinn noted that there are residents, businesses and landlords involved and that it is unfair to put all the burden for noise control on just one of them. He said that everyone should do a little.

Mr. Yerinedes noted that if businesses are doing the right thing, but the insulation isn't there, the residents are going to be affected. And Ms. Melendez noted that if they continue to have mixed use zones, they are going to need to address this issue.

In regard to the zoning department enforcing, it would take away from zoning inspections.

Bill Ireland – Chief Building official

Mr. Ireland stated that state code dictates what buildings can do, and state needs to approve modifications to code. He noted that some of the older buildings in South Norwalk were grandfathered when they were approved for restaurants and that they don't get the same complaints on the newer buildings.

He said that you can't enforce adding soundproofing unless an establishment has altered the ceiling. Then they've changed it and will need to insulate. He also noted that currently there are not differentiating permits. They are all for 'assembly'

Deanna D'Amore—Health Department

Ms. D'Amore stated that the Board of Health support of this proposed ordinance, noting that it is a health issue. She said that most research is on hearing loss, but sleep, stress, hypertension, can also be caused by excessive noise.

She noted that the proposed ordinance calls for a "Director of Board of Health", and that position doesn't exist. She said that currently when the Health Department gets complaints, they route them to the appropriate entity.

If the Health Department needs to be more involved in enforcement, it would call for additional budget and staff.

5. ACCEPTANCE OF MINUTES

There was no review of minutes.

6. OLD BUSINESS

Chapter 68, Noise Ordinance

Mr. Zwirling, who is the director of the Rutgers University Noise Center, has trained 8-10,000 noise officers through his career. He has also drafted noise ordinances for several municipalities around the country.

At Mr. Livingston's request, Mr. Zwirling talked the committee through the current iteration of the ordinance,

Mr. Zwirling said that this ordinance is an amalgam of many jurisdictions that he's worked on but is written to the specific needs of Norwalk. He based his requirements on regulation 22A of the Connecticut Environmental Protection Code, which has fairly stringent standards. Mr. Zwirling made two visits to Norwalk where he recorded noise levels. On April 20 and July 28, 2018, he took measurements through the night, up and down Washington Street, in bars, in residences. He also toured the city and recorded sound levels.

He said that sound decibel measurements were all based on the level or within the property of affected person, unless otherwise specified. It is only measured at the time of complaint.

Mr. Zwirling highlighted the difference between continuous v. impulsive sound, noting that they should be regulated differently. He defined extraneous sound as the sound of something large clattering to the ground. If it happens more than five times, it is continuous.

He also explained the categories of buildings, including multi-dwelling and multiuse properties.

Mr. Zwirling noted that the proposed ordinance retained the definition of noise sensitive zones, and while he was not sure it was necessary, he noted that the Board of Health could identify those protected zones.

He reiterated that the City can change the draft ordinance as it sees fit and must identify which department becomes the noise control administrator.

Mr. Livingston suggested that in the interest of time, they take the discussion off line, and let Mr. Zwirling answer issues from public comment. Mr. Corsello agreed, and said he would like to be part of that conversation.

Mr. Zwirling said, in reference to construction equipment noise that the exemption has been removed but noted that construction sites need to be specified within the ordinance. He also said there is a prohibition against nighttime construction and noted that white noise backup beepers (called broadband) make a difference.

In reference to the interior sound measurement (table three, column three) measurements were taken meticulously at various sites in front of and above bars. The measurement of 35 decibels represents the sound between songs, and it is up to the City to decide if that is the goal.

In regard to the call for extended exemption hours on Thursday night, Mr. Zwirling said it was up to the City.

Ms. Melendez asked if other cities Mr. Zwirling has worked with have included Thursday nights, and he promised to look into it.

Regarding training, he said he would provide a proposal. It is usually a three-day training, for people to get comfortable with the technology, technique and strategy.

Mr. Corsello asked how long testing takes on site after a complaint, and Mr. Zwirling said it can take 15-20 minutes if the sound is consistent. He noted that there is calibration and other work that needs to be done to get appropriate measurements.

Mr. Tsiranides asked if people can train others once they've been trained. Mr. Zwirling said that because of the nuance he doesn't recommend it immediately. He also noted that people should be retrained every two years.

Mr. Barnett asked if the measurement was anonymous. Mr. Zwirling noted that he tried to be as anonymous as possible, but that he stood out with his equipment. He noted that the levels are based on what the levels were those two nights, as the bars themselves chose.

Mr. Zwirling also said that he took levels on Washington Street and that there were people on the street. He tried to get ambient sound in front of a closed restaurant.

He said that owners can take the course as well and get the equipment and can become compliant on their own.

Mr. Hempstead said that there has been concentration on SoNo and asked about levels at industrial areas.

Mr. Zwirling said he toured the sites and saw the proximity to homes. He noted that berms, barrier walls, and white noise equipment can help. He said it is up to the City to decide how to regulate, because the levels in the ordinance are protective of residents and could significantly alter how businesses work.

Mr. Hempstead noted that it is concerning because it affects either on person's right or another's. He asked for examples of what other jurisdictions have done.

7. NEW BUSINESS

There was no new business.

8. DISCUSSION ITEM

There were no discussion items.

9. ADJOURNMENT

****MR. YERINEDES MOVED TO CLOSE THE MEETING**

**** MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 9:30pm.

Respectfully submitted,

L. Grassilli

Telesco Secretarial Services