

**CITY OF NORWALK
ORDINANCE COMMITTEE
APRIL 18, 2017**

ATTENDANCE: Eloisa Melendez, Chair; Douglas Hempstead; Bruce Kimmel;
Thomas Livingston

STAFF: Timothy Callahan, Director of Health; Brian Candela, Corporation
Counsel; Thomas Kulhawik, Police Chief;
Michael Wrinn, Planning and Zoning;

OTHERS: Richard Bonenfant, Common Council member;
Charles Shamoon, Assistant Counsel, New York Department of
Environmental Protection (by phone)

ROLL CALL

Ms. Melendez called the meeting to order at 7:08 p.m. and called the Roll.

PUBLIC HEARING

A public hearing was not held this evening.

PUBLIC HEARING DISCUSSION

There was no discussion this evening.

PUBLIC COMMENT

Mr. Thomas Rich reported that he hired a sound engineer and highlighted their report. He said that where multiple used exist, the most restrictive category should apply.

Mr. Vernon Howard said that on March 31st he had a sound study done at his home; it was the quietest Friday compared to a typical Friday. He submitted a letter from his neighbor.

Ms. Diane Lauricella said that noise is a health issue and that a health professional is needed to assist the Zoning, Legal and Police departments. She submitted a picture showing noise levels.

Mr. Nick Rodriguez said that from the receiver end in a mix use that 45 decibels is reasonable.

ACCEPTANCE OF MINUTES

March 21, 2017

- ** MR. LIVINGSTON MOVED TO ACCEPT THE MINUTES AS PRESENTED**
- ** MOTION PASSED UNANIMOUSLY**

OLD BUSINESS

Noise

Mr. Hempstead suggested finding the funding to hire a consultant to create the Ordinance. Mr. Bonenfant noted that when the Ordinance was created in 2000, it focused on construction activity, but not the noise it generated. Mr. Kimmel said that they all agree that the noise for normal living is between 40 – 45 decibels, but in the buildings with entertainment, the noise level goes up to the apartments. He asked Mr. Wrinn if it is a construction problem at 62 decibels. Mr. Wrinn said that is a question for the Building Department. He said that he understood they are at 62 decibels because they are using the least restrictive level.

Mr. Kimmel asked if it would be possible to keep the level at 45 decibels, if they reduce the receptor zone to 45 decibels. Mr. Wrinn said they would have to do something to insulate the ceiling. He said that the speakers would have to be taken down and move their acoustics. He noted that these are older buildings and they create a lot of challenges.

Chief Kulhawik explained that when the Police officers respond to a complaint, they do a reading on a calibrated device. If the level is over 62 decibels, they will issue a violation. He said that the device is easy to use. Mr. Livingston asked if there is a mechanism to enforce the Ordinance. Chief Kulhawik said that the Police Officers are instructed to document and notify the Zoning Department of a door is open.

Mr. Kimmel said that over 60 decibels is not healthy. He asked the Committee members if they wanted to stay at the least or most restrictive levels for a mixed use zone. Mr. Hempstead asked, from a Zoning perspective, if there is a difference between a restaurant permit and a nightclub permit. Mr. Wrinn explained that a permit can be issued to replace an existing bar they are not issuing new permits for bars.

Mr. Hempstead asked if they could create a noise ordinance in the Washington Street Historic District that is more restrictive. Mr. Livingston said he liked the idea of a district

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wide zoning. Mr. Hempstead asked if they could write an Ordinance that restricts the liquor permit so they can't have a nightclub. Mr. Livingston said they need to be cognizant of industrial areas as well.

Mr. Shamoon joined the meeting by phone. He discussed the New York City noise code and said that fines are fairly substantial. They developed a way for musical venues to hire a specialist to insulate those venues. He said he created a video showing how necessary it is to insulate a musical venue.

Mr. Shamoon said he found a reasonable way to work with stakeholders to prevent music from disturbing others. He noted that 45 decibels is necessary to get uninterrupted sleep in a residence. He said that 45 decibels can be achieved by suspending speakers by wire with a professional suspension system which absorbs the sound and does not transfer it to the structure. He said they use only 45 decibels 100% of the time for all uses. One of the key things is a noise limiter. He described how it works and said that once it is set, the noise level can't exceed a certain decibel level.

Mr. Kimmel explained that the Committee is considering modifying the noise ordinance; a fair conclusion is that the limit would be 45 decibels. He said their job is to craft an adjustment to the existing ordinance with a hard limit of 45 decibels for 24 hours and that it is up to each establishment to make their revisions.

Mr. Shamoon said that all of the industrial areas will eventually become mixed use. He said that noise from machinery may be easier to fix, but a consultant should be hired. He said they have a catch all section called "unreasonable noise" that addresses industrial noise.

Mr. Kimmel said that in Norwalk, there is a situation with contradictory zoning next to each other. Mr. Shamoon said in NYC they have 12 foot plywood barriers around construction sites, which cuts down on the noise level.

Mr. Livingston asked Mr. Shamoon if they regulate frequencies. He said they did, but it is very complicated. He said that a decibel is a sampling of each frequency.

Mr. Bonenfant asked if any nightclubs were grandfathered in as the regulations evolved. Mr. Shamoon said the code was passed in 2005 and was not enforced until 2007. The establishments had two years to understand the code.

Mr. Hempstead asked that the Committee get a proposal and reach out to consultants. Mr. Kimmel said that based on what Mr. Shamoon said, it is possible that all the work is done; at this point it becomes the responsibility of the business owner. Mr. Livingston said that based on what Mr. Shamoon said, it takes time. Mr. Hempstead asked Chief Kulhawik if there is anything in the existing ordinance that would help with enforcement, such as revoking the license after a certain number of violations. Mr. Callahan said that

they can't revoke a license, but they may not renew a license. Mr. Wrinn said that if an establishment is playing music with their doors and windows open, they should be fined.

Mr. Kimmel asked the Committee members if they should go with the most or least restrictive ordinance. Mr. Hempstead asked if there is any way to add this to the blight ordinance; they are in violation of the noise ordinance, which becomes a blight issue.

Mr. Kimmel said that he understood that the catalyst for this discussion is the noise from bars and the residents living above the bars. Mr. Bonenfant said that this is a quality of life issue.

Mr. Hempstead suggested discussing who would do the enforcing. Mr. Howard said that Stamford has a Zoning officer on call and if they have to go out at night, the offender has to pay that fee.

For the next meeting, Mr. Kimmel asked Mr. Candela to:

- get an idea of how a timeline would work
- if the \$250.00 fine was set in stone
- how to deal with multiple violations

Mr. Wrinn said that an acoustical engineer would say that a noise limiter is key.

Mr. Livingston suggested:

- retaining an acoustical expert
- asking the Common Council to review the ordinance
- changing any language to apply the limit of 45 decibels in a mixed use zone
- creating a phase in period

Indemnification

Mr. Livingston asked Mr. Candela if it is his recommendation is to leave this as a municipal officer. Mr. Candela said it mirrors the statute.

**** MR. HEMPSTEAD MOVED TO HOLD A PUBLIC HEARING AT THE
NEXT REGULAR MEETING OF THE ORDINANCE COMMITTEE
** MOTION PASSED UNANIMOUSLY**

Bike/Walk Advisory Committee

This item was not discussed this evening.

NEW BUSINESS

No new business was discussed this evening.

ADJOURNMENT

**** MR. LIVINGSTON MOVED TO ADJOURN
** MOTION PASSED UNANIMOUSLY**

There was no further business and the meeting was unanimously adjourned at 9:08 p.m.

Respectfully submitted,

Rosemarie Lombardi
Telesco Secretarial Services