

**CITY OF NORWALK
ORDINANCE COMMITTEE
REGULAR MEETING
APRIL 16, 2019**

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Chris Yerinides; Beth Siegelbaum; Colin Hosten; Darlene Young; Michael Corsello ; Doug Hempstead (arrived at 7:30PM)

STAFF: Attorney Brian Candela, Corporation Counsel

OTHERS: Michael Church; Kara Murphy; Nora Niedzielski-Eichner; Herald Williams

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:02PM.

2. PUBLIC HEARING (possible action on):

Ms. Melendez opened the public hearing at 7:03PM.

- Discuss and vote on Chapter 68- Noise Ordinance

Tracey Dinkin- 327 Flax Hill Road

Ms. Dinkin stated that the noise over the past 5 to 6 years has become almost unbearable and recently her husband began working from home and there are times that he receives a business phone call and can't hear on the phone. She said a lot of the noise comes from Fodor Farm which has gotten better over the past year because they have been calling and complaining and people have finally been paying attention. She said the noise level has

gotten out of control and it's not just volume or decibels but its duration and it interferes with the quality of life.

John Ryan- 327 Flax Hill Road

Mr. Ryan stated that he has read over the draft ordinance and asked how it will be enforceable and their biggest problem is the endless landscaping that goes on. He gave an example of leaf blowers running from 8:00AM until 1:00PM in the afternoon and there is nothing in the ordinance that refers to that kind of noise. It is the intensity and duration of the noise and he could deal with it if it were every once in awhile but they live in an area where everyone has a landscaping service which is creating an incredible amount of noise for 14 hours a day, and as far as he can see is not regulated by the ordinance. A lot of communities have outlawed the use of leaf blowers and this is a quality of life issue for them and don't know how much longer they will be able to stay in Norwalk if this is what they will have to deal with for 14 hours a day 7 days a week.

Vernon Howard- 110 Washington Street

Mr. Howard stated if he had known that he would have had to learn about decibels, noise ordinances or any of that kind of thing he would not be here today and would not have purchased his home. No one should have to purchase a home and find out later that it is not conducive to living and that you would be subject to 60-80 decibels 24 hours a day 7 days a week and it shouldn't be allowed. We did not expect to have to wear earplugs to bed or would have to wear headphones to listen to their television. He said that it has gotten better over the last couple of years but when they had first moved in the noise was horrible. He asked that this ordinance gets pushed forward to the Common Council for approval.

Dana Laird- 214 Highland Avenue

Ms. Laird stated that she had gotten used to the rock crusher on Rockland Road and the endless leaf blowers but when they began using the hoe ram on the ledge that hers and two other homes were built on and went on for over a year. There is a large amount of suffering for so little that had gotten accomplished and was terrible for the whole neighborhood.

Lynn Stephens Massey- 36 Meeker Court

Ms. Massey read the mission statement of the noise ordinance as it currently exists and said it states the hours are Monday through Friday from 7:00AM to 8:00PM that noise may be run. She said the noise around her home is intolerable and beyond the quality of life and is not healthy. She said when she goes to the beach which is two miles away and

she can still hear the hoe ram. There are problems with the mission statement of the ordinance because thirteen hours of noise is intolerable and there should be no construction noise or leaf blowing allowed on the weekends. She said her street is now a rock quarry and there is no natural life, ecology or environment and is within the Planning and Zoning of Norwalk.

John Flynn

Mr. Flynn stated that he lives three blocks from the stone crusher on Meadow Street and he has kept a running log for the past two years and the noise has been at 68 decibels inside his home and outside is over 90 decibels. He said that nine noise complainants were received within three hours and there was never a police report made and there are over 12 noise complaints made on average every Saturday for over a year with no police report ever made.

Elizabeth Greenwood- 71 Osborne Avenue

Ms. Greenwood she lives a half mile from East Norwalk Railroad Station where the Walk Bridge construction work is currently taking place and the noise begins at 6:00AM and is extremely annoying. She also stated that City Carting picks up the garbage at 2:00AM and there should be something included in the ordinance.

Matt Mayida- 118 Washington Street

Mr. Mayida stated that he had moved to Norwalk from Florida and did his entire search online to find an apartment and was very much misled by his landlord regarding the sound levels on Washington Street, and is so frustrated that he is now moving out of Norwalk because of the ignorance of the bar owners on Washington Street. He said he has chosen if he goes out at night he will not go out in Norwalk and he will spend his economic dollars elsewhere because of it.

Diane Lauricella

Ms. Lauricella stated that she was disappointed that a decision was made that the Health Department or the Zoning Enforcement people have been pulled out of the investigation part of the ordinance. She still thinks that the Health Director the resources they need in order to assist and get them the training and staff they need to properly enforce the ordinance during the day during the week and rely on the police department mainly on nights and weekends. There is a special appropriation that will be needed to begin training immediately and to purchase the needed equipment. There needs to be a concerted effort of public outreach with citizens and business's and made specific suggestions in the ordinance which including adding recycling, food and textile pickup

under the restricted uses and activities; nothing before 7:00AM; under the prohibited activities to add additional restrictions including nothing until on Sunday until noon and also suggested a meeting be held regarding the landscape industry; and to look at designating noise sensitive zones. Reach out to specific industry like dumpster companies for demolition, and solid waste and landscape crews and that in the past the zoning and planning commissions create a lot of the problems without the mindfulness they need for subdivision assignment and the Building Department must get involved before they give out certificate of occupancy because the point of the noise ordinance is to keep it in your own home and to yourself. She requested that an emergency meeting take place where the current noise enforcement laws are discussed with the police and the Economic Development Chief is included and ask the police why they are not writing up the noise complaints.

Ms. Melendez closed the public hearing at 7:33PM

3. PUBLIC HEARING DISCUSSION

Mr. Livingston said that he agreed with Ms. Massey about the noise from Meeker Court, which both said could be heard at Bayley Beach and that it is unbearable and there is no excuse for it, it shouldn't be allowed to happen, and he thinks we understand that construction has to go on in the city but I think that there's a balance of health and safety issues with the need for construction. He suggested amending section 78-6 to include after the appropriate permits have been obtained site work in a residential zone, noise sensitive zone or mixed use shall be limited to the week days other than state or federal holidays from 8:00AM to 5:00PM. Mr. Hempstead questioned the efficacy of allowing residents but not contractors to work on their lawns on weekends because residents can also buy loud equipment. Mr. Hosten said that quieter leaf blowers are available. Mr. Hempstead also asked about emergency work and what the methodology is for exempting it. Attorney Candela suggested contacting the Health Director. Mr. Hosten asked if landscaping work would be included. Mr. Hempstead said it is mainly for heavy duty construction work. Mr. Hosten said that he agrees in principal that heavy commercial equipment that it is fair and not onerous to restrict the hours on Monday through Fridays from 8:00AM to 5:00PM with the exception of holidays. Mr. Corsello said that he is concerned about stifling the city's growth and that all development is going to be more costly. Mr. Hosten said the question ultimately asks what the price tag is that we place on people's health. Mr. Corsello said that he recognizes the problem but the solutions are just very complicated. Mr. Hempstead requested getting the opinion of some commercial businesses and how it will affect their business. There was discussion regarding the

construction of The SoNo Collection mall on West Avenue and that is happening outside of the hours allowed by the present ordinance. There were concerns by the committee regarding residential areas abutting light industrial zones need to be dealt with later. Mr. Livingston suggested moving the ordinance forward to include residential and special zones. Ms. Young said that she disagrees and that the folks in South Norwalk have been dealing with this issue for quite a long time and she thinks it's a good thing that the council is at this point of really addressing the issue, and thinks it should just be in there somehow. Ms. Melendez said after the ordinance is approved by the Common Council it will need to be sent to the DEEP to be approved before it can go into effect and she does not know how long that will take. Mr. Hempstead said that it can also be tweaked once it is moved forward and suggested in the meantime the committee meet with the zoning officials to fine tune it.

**** MR. LIVINGSTON MOVED TO APPROVE AFTER THE APPROPRIATE PERMITS HAVE BEEN OBTAINED SITE WORK IN RESIDENTIAL AREAS AND NOISE SENSITIVE ZONES THAT INCLUDE ANY ACTIVITIES INVOLVING THE USE OF HEAVY EQUIPMENT BUT NOT LIMITED TO HYDRAULIC POINT BREAKING OF ROCK, PAVEMENT BREAKING, JACK HAMMERING, PILE DRIVING, EXCAVATION AND ACTIVITIES RELATED TO THE PROCESSING OF EARTH AND ROCK SUCH AS SCREENING SPLITTING AND CRUSHING, REMOVAL OF MATERIALS AND FILLING. SHALL BE LIMITED TO THE WEEKDAYS MONDAY THROUGH FRIDAY OTHER THAN STATE OR FEDERAL HOLIDAYS BETWEEN THE HOURS OF 8:00AM. TO 5:00PM. DURING THE PERMITTED HOURS SITE WORK ACTIVITIES ARE EXEMPT FROM THE LIMITS IN SECTION 68-5 SUBSECTION A CITY WORK EXCLUDED.**

**** THE MOTION PASSED UNANIMOUSLY**

There was a discussion regarding the use of leaf blowers and Ms. Melendez said that Greenwich has banned leaf blowers. Mr. Corsello said he would like to hear public input on the restricted uses and activities for not being able to hire a landscaper on the weekends. Mr. Hosten said it is the same as the noise level on Washington Street and that they are not outlawing music just telling people to sound proof and we are not telling people they can't use a leaf blower but some of them are very loud. Mr. Corsello said he is not in favor of eliminating the use of leaf blowers on Sundays and it seems very drastic and objected that lawnmowers wouldn't qualify under the noise limits and if you want to be drastic, tell people they can't mow their lawns anymore which will also become a blight issue. Mr. Hempstead said he agrees but would be in support of more restrictive hours on Sundays. Mr. Livingston said he thinks there should be different rules for residents and commercial usage. Mr. Hempstead requested to fact check with Public

Works. Mr. Hosten said the ordinance is not perfect but it's an improvement and it's a way to move it forward

**** MR. LIVINGSTON MOVED TO APPROVE AN AMENDMENT EXCLUDING EMERGENCY WORK POWER TOOLS, LANDSCAPING AND OR YARD MAINTENANCE EQUIPMENT USED BY NON-RESIDENTIAL OPERATORS SHALL NOT BE OPERATED ON A RESIDENTIAL COMMERCIAL OR INDUSTRIAL PROPERTY BETWEEN THE HOURS AT 6:00PM AND 8:00AM ON WEEKDAYS AND THE HOURS OF 6:00PM AND 9:00AM ON WEEKENDS OR FEDERAL HOLIDAYS UNLESS SUCH ACTIVITIES CAN MEET THE LIMITS SET FORTH IN TABLES TWO OR THREE AND AT ALL OTHER TIMES THE LIMITS SET FORTH IN TABLES TWO OR THREE DO NOT APPLY. ALL MOTORIZED EQUIPMENT USED IN THESE ACTIVITIES SHALL BE OPERATED WITH A MUFFLER AND OR SOUND REDUCTION DEVICE.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. LIVINGSTON MOVED TO APPROVE THE FOLLOWING CHANGES:**

On footnote number two on table three change the wording to for the purposes of applying table three with regard to WSSD only daytime hours are extended up to: A 10:00PM on Sunday- Wednesday; B. 11:00PM on Thursday; and C. 1:00AM on Friday and Saturdays before Federal and State holidays.

68-10 civil penalty has been changed to fine. In section 68-10D instead of "and" in section one and two it has been changed to "or".

68-10C-1-Change to Upon the initial violation written warning notice that a violation has occurred shall be issued and no fine shall be imposed for the initial violation

68-10C-2 Second offense by a fine of \$100

68-10-3 Third offense and subsequent offenses by a fine of \$250

68-10-4 Each day that a violation exists shall constitute a separate violation of this chapter and no more than one fine shall be imposed in one 24 hour period.

Mr. Corsello asked if there is a provision if somebody wants to contest. Attorney Candela said "no" but they do have the due process right to contest or go to court.

68-15- Change to ten days from the approval of Common Council.

Attorney Candela said that Mr. Zwerling had emailed him a recommended change under impulse sound and to change it from fast impulse or peak to fast and impulse and remove or peak.

**** THE MOTION PASSED UNANIMOUSLY.**

****MS. HOSTEN MOVED TO APPROVE A CHANGE IN SECTION 68-9B FROM CHIEF OF POLICE TO NOISE CONTROL ADMINISTRATOR/OR HIS OR HER DESIGNEE, INSERT PROBABLE CAUSE AND CHANGE TO GENDER NEUTRAL THROUGHOUT THE NOISE ORDINANCE.**

**** THE MOTION PASSED UNANIMOUSLY**

****MR. LIVINGSTON MOVED TO REMOVE THE WORD PRESSURE UNDER THE IMPULSIVE SOUND SECTION OF THE NOISE ORDINANCE.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. LIVINGSTON MOVED TO APPROVE FORWARDING THE NOISE ORDINANCE AS AMENDED TO THE NEXT COMMON COUNCIL MEETING FOR APPROVAL.**

**** THE MOTION PASSED UNANIMOUSLY.**

4. PUBLIC COMMENT

Diane Lauricella

Ms. Lauricella thanked the committee for their thoughtful responses to the noise ordinance. She said over the years there has been a lot of good effort to amend the structure and process of Code of Ethics and she urged that there be a robust public outreach done.

John Flynn

Mr. Flynn stated that he has filed 13 ethics complaints since October 24th and that his son was strangled in his driveway and a police report was never filed and it is obvious to

him that the changes that are being proposed that he is a vexatious and he is opposed the Attorney Candela making the changes.

Ann Frimmet- 30 Dock Road

Ms. Frimmet stated that she has lived in Norwalk for 26 years and the noise has been a problem. Residents and the city have to work together to make things right.

Elizabeth Greenwood- 71 Osborne Avenue

Ms. Greenwood stated as a disabled person it is not easy to obtain an ethics document to file and there should be more simplicity for people who are or who not disabled.

Emma Susacky- FD Rich Co.

Ms. Susacky stated that they are deeply invested in Norwalk and based on their experience out of control noise in any neighborhood does not work and most people think of SONO as a retail/restaurant/ entertainment district and that it is but what doesn't seem to be highlighted is that it has become home to a community of over 600 residents who have the right for a peaceful night's sleep and the allowable decibels level that is included in the proposed ordinance is widely accepted in cities all over the country and will not put anyone out of business but give law enforcement the tools it needs. She urged the committee to forward the ordinance to the Common Council for a swift approval.

5. ACCEPTANCE OF MINUTES

- ** MS. YERINIDES MOVED TO APPROVE THE MINUTES.**
**** THE MOTION PASSED UNANIMOUSLY.**

6. OLD BUSINESS

- Discuss Code of Ethics Section 32-12 (E) (1)(a)- Review of complaining; vexatious filer

Ms. Murphy said in section 32-12E there was language added to deal with Vexatious filers favors and the purpose is to give the committee the opportunity to all of the complaints for when there is a frequent flier before they decide whether they will accept them or not and they think it is necessary based on past experience. Mr. Church said all complaints will also be reviewed but the change is so there is no abuse to the system. Mr. Church said they take that seriously and he thinks sometimes in the political arena, people don't take that as serious and think, and use the Ethics Board as a weapon, which wastes time and impedes work on legitimate complaints. Mr. Church said years ago, in a different town, people would announce that they were going to file an ethics complaint and then not do it or do it after an election. The proposed changes were modeled largely after the state's ethics statute, and the Board also studied ethics ordinances in other towns, including Stamford and Danbury. Mr. Williams said It's not like we're receiving an overwhelming amount of complaints, but we are trying to prevent having individuals submit so many complaints that when we do have valid complaints. He said we can't address them because we have a queue of junk.

Mr. Corsello said there are others reason other than a vexatious that the committees can decide not to form an investigatory panel and suggested removing the word vexatious and just call it review of complaint. Mr. Church said ethics complaints should be accompanied by supporting documentation, and if they aren't, the Board would like the discretion not to form an investigative panel, which takes time and prevents consideration of legitimate complaints. We just want to make sure that they don't abuse the system. Ms. Murphy said if it's a legitimate complaint that person should be able to come up with that documentation, as opposed to if somebody using the complaint as a sword to hurt someone without evidence.

**** MR. CORSELLO MOVED TO AMEND SECTION 32-12E1A TO CHANGE THE TITLE FORM REVIEW OF COMPLAINT; VEXATIOUS FILER AND ELIMINATE THE VEXATIOUS FILER AND UNDER PARAGRAPH TWO TO REMOVE FILED BY VEXATIOUS FILER.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. CORSELLO MOVED TO AMEND SECTION 32-12E2B UPON THE REJECTION OF A COMPLAINT IF THE BOARD OF ETHICS MAKES A FINDING THAT THE COMPLAINT WAS VEXATIOUS AND BROUGHT FORWARD IN BAD FAITH MAY PROVIDE APPROPRIATE RELIEF COMMENSURATE WITH THE CONDUCT INCLUDING BUT NOT LIMITED TO, AN ORDER THAT THE BOARD OF ETHICS NEED NOT ACCEPT FUTURE COMPLAINTS FROM THE VEXATIOUS FILER FOR A SPECIFIED AMOUNT OF TIME.**

**** THE MOTION PASSED UNANIMOUSLY.**

- Discuss Code of Ethics Section 32-12(E)(1)(b)- Appointment of Investigating Panel

Ms. Murphy said the changes are: section 32-12(E)(1)(b)- that the consisting of three individual who are electors of the City of Norwalk was removed because it was redundant; the language was changed to an investigating panel will be appointed, within 21 days after the next regularly scheduled Board of Ethics meeting. Attorney Candela said there was a change to the first line to: subject to 32-12(E)(1)(a), an investigating panel will be appointed, within 21 days after the next regularly scheduled Board of Ethics meeting.

- Discuss Code of Ethics Section 32-12(E)(2)(c)-Investigation of Probable Cause; Confidentiality of Initial Proceedings

Ms. Murphy said the existing rules require that complaints be kept confidential and under the planned changes, violation of confidentiality would be grounds to dismiss the complaint and perhaps ban the complainant. The complaints have always been confidential, but as you are all well aware, sometimes these things wind up on the front page of the Norwalk Hour and they are not supposed to so, we put more teeth into the language so there was actual consequence to breaking confidentiality. Mr. Church said if you are serious about making a genuine complaint, you make it, it's confidential but if you are using it as a weapon for public consumption, then it is not intended for us to review and we want to have teeth, that somebody doesn't take it lightly. Mr. Livingston suggested taking out the language that would permanently ban someone from filing a complaint, and leave it at the panel's discretion. Mr. Church said he is comfortable with the discretion and the purpose of the permanent ban is so that people take it seriously. Ms. Murphy said when you file an ethics complaint you are questioning someone's integrity and if someone throws an ethics complaint out there in the public eye and they don't follow through on it, it's going to be hard for that public official sometimes to recover on their reputation. Mr. Hempstead suggested included a not to exceed amount of time. Mr. Livingston said that the board has impressed him throughout this, with their diligence and thoughtfulness and he is comfortable to give them that discretion.

**** MR. LIVINGSTON MOVED TO AMEND SECTION 32-12(E)(2)(c) TO MAY BE GROUNDS TO BAN THE COMPLAINANT FROM FILING COMPLAINTS IN THE FUTURE.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. YERINIDES MOVED TO APPROVE SCHEDULING A PUBLIC HEARING FOR THE NEXT SCHEDULED ORDINANCE MEETING**

**** THE MOTION PASSED UNANIMOUSLY.**

7. NEW BUSINESS

There was no new business discussed this evening.

8. DISCUSSION ITEM

There was no discussion this evening.

9. ADJOURNMENT

**** MR. YERINIDES MOVED TO ADJOURN**

**** THE MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 9:55PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services