

**CITY OF NORWALK
ORDINANCE COMMITTEE
SPECIAL MEETING
JANUARY 30, 2019**

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Doug Hempstead; Chris Yerinides; Beth Siegelbaum; Colin Hosten; Ernie Dumas

STAFF: Attorney Brian Candela, Corporation Counsel

OTHERS: Attorney Leonard Braman; Eric Zwerling (via phone); Diane Lauricella; Christopher Hickey

1. ROLL CALL

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

2. PUBLIC HEARING (possible action on):

There was no public hearing held this evening.

3. PUBLIC HEARING DISCUSSION

There was no public hearing discussion this evening.

4. PUBLIC COMMENT

Attorney Braman

Attorney Braman stated that he represents the owners of Our House which is located at 112 Washington Street. He presented two proposals on how to improve the draft ordinance to make it fairer to operators and businesses particularly on Washington Street in South Norwalk as well as residents. He said the proposals include deleting or modifying the limits on sound levels inside the residence of an affected person and that the proposed draft ordinance requires a maximum 35 decibels inside the home of a Washington Street resident at night is setting up businesses on Washington Street to fail. He said that a soft whisper five feet away is 40 decibels and HVAC equipment on a residential building can be up to 50 decibels between 10:00PM and 7:00AM. so you would be requiring bars and restaurants to be much quieter than HVAC equipment. He said that it is up to the committee if they want to set such an unreasonably stringent standard for bars and restaurants and make it more difficult for businesses to open in South Norwalk, and it incumbent on this committee to try and reach a solution that is not only good for the residents but for the businesses as well. He said that they are also proposing to push back the daytime hours from 10:00PM on Thursday nights until 11:00PM to allow a little more of the economic activity that is so crucial to South Norwalk.

Christopher Hickey

Mr. Hickey stated that there are plenty of other businesses in South Norwalk in addition to Our House that will be negatively affected by the proposed ordinance. He stated that the levels are low and that there seems to be a lot of confusion as to what the current legal status is and what it will be and how it will be determined.

Diane Lauricella

Ms. Lauricella spoke on behalf of the South Norwalk Citizens for Justice and said she is representing their opinion about the ongoing concerns and interest on ending the noise ordinance. She submitted a document for the record and said that it is important to have very well laid out discussion about who is the noise control administrator and what type of training either the administrator or those who will help the administrator will receive. The current department which is the police department that is responsible for enforcement has showed up on several instances and they either did not bring the noise meter instrument or did not know how to use it. She said that the whole point of the enforcement is to be sure that there is evidence that the person that administered and enforced has certification and training in writing so they will hold up in court. She said

we also want to be sure that the attitude of the people enforcing the ordinance understand that it is a health issue and one of the attitudes that they have found leads people not to enthusiastically properly enforce the sound laws. She said that her main concern with the proposed ordinance is with the violations and penalties and that the violations should be made to be fixed in much less than 180 days and the amount is also long for a person to prepare. She said that she dismisses the statement that the people who choose to live on Washington Street and rent above the bars and restaurants should have known what they were signing up for on the grounds that we did not have a very good noise ordinance before now, and there is some incentive for this committee to look at the incentivizing noise attenuation for those that are currently in the first floor tendency. She requested that a public forum is held for the business owners because they are important for South Norwalk.

Mr. Dumas joined the meeting at 7:20PM.

5. ACCEPTANCE OF MINUTES

There was no approval of minutes this evening.

6. OLD BUSINESS

- Chapter 68, Noise Ordinance

Mr. Livingston requested that Attorney Zwerling walk the committee through the tables in the proposed ordinance and that one of the things that concerns him about the draft ordinance is that it contains a lot of subjectivity in terms of where the measurements are taken. Attorney Zwerling addressed the committee by phone on the recommendations to the Noise Ordinance and said that the proposed daytime sound level decibels for Washington Street are not draconian as has been inferred or outright stated. He explained the need to determine ambient noise so as not to hold business owners responsible for noise they're not creating. Mr. Hempstead asked if it would be possible to create levels of zones for background noise, so the noise levels could be factored in without elaborate measuring. Attorney Zwerling said that would be ill-advised and that the baseline ambient varies tremendously, from day to day, from season to season, circumstance to circumstance, and depending on things like the state of traffic, the number of pedestrians that are about or the state of the road, or if it's dry or wet and to try to get measurements that would capture every single scenario, would be expensive. He said that sound levels outside a building might not necessarily correlate to sound levels in an apartment over a bar and that it could be in compliance outside and not necessarily in compliance outside.

He said that he had taken readings on a Friday night in April and again in late July, finding that the noise level in an apartment over Our House was 37 to 47 decibels in April and in July it was 41 to 47 decibels which means that a daytime allowance of 45 decibels inside an apartment is within the threshold, and would allow almost all of the activity that he measured on a Friday night in April and on a Saturday night in July.

Mr. Livingston said that the hard part of this ordinance, it seems to me, is this Washington Street development district and the rest of it is something we can come to an agreement relatively quickly on.

Mr. Hosten said that the other issue is residential areas located near industrial zones, such as Village Creek, and that it's tricky, because you want to respect the residents, you want to respect the people doing their business, and I think it's sometimes hard to find a balance, but the ordinance as it currently exists does none of that so I think it's worth having a discussion to try and figure it out.

Attorney Zwerling said that he thinks that the proposed levels are fair, but that it's not for him to make the determination of what the jurisdictional level is for the City of Norwalk and that's for this Committee to determine. He said that is businesses in South Norwalk are concerned, they can do a calibration event, metering the levels in their facility to determine what's acceptable and installing equipment to monitor the situation as an evening wears on and then the facility knows they are comfortable, the person upstairs knows they are relatively comfortable and everybody goes on with their lives. He said that he does that all the time.

Ms. Melendez said that ambient noise is important because it's not fair to the businesses to have that included in their measurements, and that as a Committee we have to have this conversation about the importance of this, and that this is just one of many noise issues in the city, but this is particularly important because it's this mixed use zone and as our city grows and as we kind of promote these mixed use zones, and we have residents and commercial establishments together, we have to have respect for both. Or else we as a city should not do mixed use zones if we cannot do both. She said that the changes proposed need to be consistent with the Connecticut Department of Energy and Environmental Protection regulations, and there's a limit on the fines that can be issued.

Mr. Hosten said by having an ordinance doesn't mean there won't be complaints but that he likes that there's more defined mechanism for enforcement but it's not necessarily simplifying things even for the people who were affected, or for the businesses. Ms. Melendez said It's about working together not in spite of each other and that's really

what it really comes down to but we have to have our enforcers also understand that and honestly our whole community.

Ms. Melendez requested that Attorney Candela include the draft Noise Ordinance for discussion on the agenda for the next regular Ordinance Committee meeting on Feb. 19, 2019. Mr. Hosten also requested that the any written comments from Attorney Zwerling be submitted for discussion.

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 8:40PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services